



India

Country Reports on Human Rights Practices - [2002](#)

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India is a longstanding parliamentary democracy with a bicameral parliament. Prime Minister Atal Bihari Vajpayee, whose Bharatiya Janata Party (BJP) leads a multi party coalition, heads the Government. President A.P.J. Abdul Kalam, who was elected in July by an electoral college consisting of Members of Parliament and members of state assemblies, is Head of State and also has special emergency powers. State Assembly elections held earlier in the year in Uttar Pradesh, Punjab, Uttaranchal, Manipur, and Goa were conducted generally in a free and transparent manner with little violence. In December elections were held in Gujarat where the BJP won a closely watched election following accusations of government failure to control riots in February to March that killed over 2,000 persons, mostly Muslims. The judiciary is independent.

Although the 28 state governments have primary responsibility for maintaining law and order, the central Government provides guidance and support through the use of paramilitary forces throughout the country. The Union Ministry for Home Affairs controls most of the paramilitary forces, the internal intelligence bureaus, and the nationwide police service; it provides training for senior police officers of the state-organized police forces. The armed forces are under civilian control. Members of the security forces committed numerous serious human rights abuses.

The country is in transition from a government-controlled to a largely market-oriented economy. The private sector is predominant in agriculture, most nonfinancial services, consumer goods manufacturing, and some heavy industrial sectors. Economic liberalization and structural reforms begun in 1991 continued, although momentum slowed. The country's economic problems were compounded by a population growth rate of 1.7 percent annually and a population of more than 1.2 billion. Income distribution remained very unequal, with the top 20 percent of the population receiving 34.4 percent of national income and the bottom 20 percent receiving 10 percent. According to a government survey, 23.6 percent of the urban population and 27.1 percent of the rural population lived below the poverty level.

The Government generally respected the human rights of its citizens; however, numerous serious problems remained. Significant human rights abuses included: Extrajudicial killings, including faked encounter killings, deaths of suspects in police custody throughout the country, and excessive use of force by security forces combating active insurgencies in Jammu and Kashmir and several northeastern states; torture and rape by police and other agents of the Government; poor prison conditions; arbitrary arrest and incommunicado detention in Jammu and Kashmir and the northeast; continued detention throughout the country of thousands arrested under special security legislation; lengthy pretrial detention without charge; prolonged detention while undergoing trial; occasional limits on freedom of the press and freedom of movement; harassment and arrest of human rights monitors; extensive societal violence against women; legal and societal discrimination against women; forced prostitution; child prostitution and female infanticide; discrimination against persons with disabilities; serious discrimination and violence against indigenous people and scheduled castes and tribes; widespread intercaste and communal violence; religiously motivated violence against Muslims and Christians; widespread exploitation of indentured, bonded, and child labor; and trafficking in women and children. India was invited by the Community of Democracies' (CD) Convening Group to attend the November 2002 second CD Ministerial Meeting in Seoul, Republic of Korea, as a participant.

Many of these abuses are generated by a traditionally hierarchical social structure, deeply rooted tensions among the country's many ethnic and religious communities, violent secessionist movements and the authorities' attempts to repress them, and deficient police methods and training. These problems are acute in Jammu and Kashmir, where judicial tolerance of the Government's heavy-handed counterinsurgency tactics, the refusal of security forces to obey court orders, and terrorist threats have disrupted the judicial system. In the northeast, there was no clear decrease in the number of killings, despite negotiated ceasefires between the Government and some insurgent forces and between some tribal groups.

In November State Assembly elections in Jammu and Kashmir transferred power to a coalition composed of the People's Democratic Party and the Congress Party. International observers stated that the election took place in a somewhat fair and transparent manner; however, some nongovernmental organizations (NGOs) alleged that there were some flaws in the election, including that all major separatist groups boycotted the elections and there was an widespread fear of attacks by militants. These two parties defeated the National Conference, a political party that has dominated state-level politics since Indian

independence in 1947. Violence remained a pervasive feature of politics in Jammu and Kashmir. The fall elections took place in a climate of sporadic violence and isolated irregularities. Election-related violence killed more than 800 persons.

Terrorist attacks remained problems. The concerted campaign of execution-style killings of civilians by Kashmiri and foreign-based militant groups continued and included several killings of political leaders and party workers. Separatist militants were responsible for numerous, serious abuses, including killing of armed forces personnel, police, government officials, and civilians; torture; rape; and other forms of brutality. Separatist militants also were responsible for kidnaping and extortion in Jammu and Kashmir and the northeastern states. The Government accused the terrorist groups Lashkar-e-Tayyiba (LET) and Jaish-e-Muhammad of responsibility for carrying out many of the attacks on civilians and military personnel.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

Arbitrary and unlawful deprivations of life by government forces (including deaths in custody and faked encounter killings) continued to occur frequently in the State of Jammu and Kashmir and in several northeastern states, where separatist insurgencies continued. Security forces offered bounties for wanted militants. Extrajudicial killings of criminals and suspected criminals by police or prison officers also occurred in a number of states. Militant groups active in Jammu and Kashmir, several northeast states, and parts of Andhra Pradesh, killed members of rival factions, government security forces, government officials, and civilians.

Official government figures indicated that militant activity increased notably during the year in Jammu and Kashmir. (Kashmir has been at the center of a territorial dispute between India and Pakistan since the two nations gained their independence in 1947; both claim Kashmir.) According to the Kashmir Times, security forces killed 1,606 militants in encounters as of September, compared with 1,520 militants killed during the same period in 2000. In addition, human rights groups alleged that during the year security forces killed a number of captured non-Kashmiri militants in Jammu and Kashmir. During conflicts with armed militants, security forces allegedly responded indiscriminately to gunfire. Kashmiri separatist groups claimed that in many instances "encounters" were faked and that security forces summarily executed suspected militants and civilians offering no resistance. Statements by senior police and army officials confirmed that the security forces were under instructions to kill foreign militants, rather than attempt to capture them alive. Human rights groups alleged that this particularly was true in the case of security force encounters with non-Kashmiri militants who crossed into Jammu and Kashmir illegally. According to one prominent human rights activist, the armed forces were under orders to shoot any person who was within 12 miles of the Line of Control (the ceasefire line delineating parts of India from Pakistan in Jammu and Kashmir) or to shoot any person who was unable to quickly justify their presence in the area.

According to press reports and anecdotal accounts, persons killed in disputed encounters typically were detained by security forces, and their bodies, often bearing multiple bullet wounds and often marks of torture, were returned to relatives or otherwise were discovered shortly afterwards. For example, in January Ali Muhammad Bhat was beaten, shot, and killed allegedly in retribution for filing a complaint against the security forces. In March Mubarak Shah and his wife were killed in Dushar Gool. Security forces allegedly detained the pair a few days before they were killed.

In December in Srinagar Mohammad Ahsan Untoo, chairman of the Kashmir Human Rights forum, protested human rights violations by security forces in Kashmir, by dousing himself in kerosene and lighting himself on fire.

There reportedly was no action taken against members of the security forces responsible for the following killings in Jammu and Kashmir: The February 2001 "encounter" killing of Azam Ali in Nalgonda; the May 2001 alleged custody killing of Aijaz Ahmad Kitab; the January 2000 alleged custody killing of Mohammad Tahir Shah; the March 2000 alleged custody killing of Gulab Muhammad Chechi.

According to local press reports, the number of persons killed in encounter deaths varied widely throughout the country. In Delhi there were eight reported encounter deaths; in Chennai there were six; in Gujarat there were three. However, in Uttar Pradesh, there were 260; in Bihar there were 68, and in Mumbai there were 47.

The National Human Rights Commission (NHRC), called for all alleged encounter deaths to be investigated immediately by an independent agency; however, such an agency was not established during the year. In addition, members of the security forces rarely were held accountable for these killings. The NHRC may inquire into alleged security force abuses in Jammu and Kashmir but does not have the statutory power to investigate such allegations. Human rights activists maintained that the Government increasingly substituted financial compensation to victims' families for punishment of those found guilty of illegal conduct. In an overwhelming majority of cases where compensation was recommended, it never was delivered. In some cases, victims or victims' families distrusted the military judicial system and petitioned to transfer a particular case from a military to a civil court. The authorities generally did not report encounter deaths that occurred in Jammu and Kashmir to the NHRC; however, private citizens informed the Commission of various abuses.

The security forces killed many civilians during military counterinsurgency operations in Jammu and Kashmir. For example, in

October security forces killed nine persons following a gun battle between militants and security officials in Kashmir.

The Armed Forces Special Powers Act and the Disturbed Areas Act remained in effect in several states in which active secessionist movements exist, namely, in Jammu and Kashmir, Nagaland, Manipur, Assam, and parts of Tripura. The Disturbed Areas Act gives police extraordinary powers of arrest and detention, which, according to human rights groups, allowed security forces to operate with virtual impunity in areas under the act. The Armed Forces Special Powers Act provides search and arrest powers without warrants (see Section 1.d.).

Accountability remained a serious problem in Jammu and Kashmir. Security forces committed thousands of serious human rights violations over the course of the conflict, including extrajudicial killings, disappearances, and torture (see Sections 1.b. and 1.c.). Despite this record of abuse, only a few hundred members of the security forces have been prosecuted and punished since 1990 for human rights violations or other crimes. Punishments ranged from reduction in rank to imprisonment for up to 10 years.

In order to get greater accountability for abuses committed by security forces members in Jammu and Kashmir, the NHRC recommended that the Government allow the NHRC to investigate complaints of the army and paramilitary forces excesses; however, the Government decided that the paramilitary forces were part of the armed forces. As such, paramilitary forces were protected from investigation by the NHRC and from criminal prosecution for certain acts under various emergency statutes. Under the Human Rights Protection Act, the NHRC cannot directly investigate allegations of human rights abuses by the armed and paramilitary forces.

Violence, often resulting in deaths, was a pervasive element in Jammu and Kashmir politics (see Section 3). According to the Jammu and Kashmir Director General of Police, shootings, explosions, and suicide attacks during the election killed more than 800 persons. More than 260 civilians, 250 security personnel, and 370 militants were killed in politically motivated violence during the year. For example, between August and October militants killed 44 persons from the National Conference Party, Congress Party, People's Democratic Party and independent activists and two candidates, Jammu and Kashmir Law Minister Mushtaq Ahmed Lone and Abdul Rehman. Supporters of different political parties, and supporters of different factions within one party, frequently clashed with each other and with police during the election.

There were many allegations that military and paramilitary forces engaged in abduction, torture, rape, arbitrary detention, and the extrajudicial killing of militants and noncombatant civilians, particularly in areas of insurgencies (see Sections 1.b., 1.c., 1.d., and 1.g.). The majority of complaints during the year involved individual cases; while there had been complaints of individual houses being destroyed, there were no reports of entire villages being burned by armed forces or of mass killings, as in past years. Human rights groups alleged that police often faked encounters to cover up the torture and subsequent killing of both militants and noncombatants. For example, in May police arrested Bhujangrao Bhandari in Nerul. Police asserted that Bhandari had hung himself; however, since Bhandari only had one arm, human rights observers said the police version lacked credibility. By year's end, no inquiry had been ordered in Bhandari's case. The number of persons killed and injured in militant violence in the northeastern states was significant but was much lower than the numbers killed in similar violence in Kashmir. The Home Ministry reported that during 2001, 107 members of the security forces, 429 civilians, and 517 militants were killed in the northeast. According to India Today, deaths in Mumbai in police encounters from January to July were 39, compared with 92 in 2001. Numerous incidents of encounters involving security forces and militant organizations such as the United Liberation Front of Assam (ULFA), the National Democratic Front of Bodoland (NDFB), and the United People's Democratic Solidarity (UPDS) continued. For example, on October 30 in Guwahati two militants allegedly involved in a mortar attack on Dispur on October 27 were killed by state police. An investigation by the Assam Human Rights Commission resulted in the transfer of two senior police officials. In November police shot and killed two men they claimed were Pakistani terrorists. A witness challenged the police account of the shooting, alleged the encounter was fake, and later filed a petition in the Delhi High Court seeking an independent inquiry into the incident. At year's end, the witness claimed that the government put pressure on him to change his statement.

No action reportedly was taken by the Chief Minister of Andhra Pradesh in the 2001 killing of Azam Ali or Purushotham. The Andhra Pradesh Civil Liberties Commission (APCLC) believed that the police, not the PWG, were involved in the killings. In 2001 Amnesty International (AI) had asked the Chief Minister of Andhra Pradesh to order an impartial investigation into the killing of Purushotham and Azam Ali. There were no reports of any action taken against the responsible members of the police who killed six PWG activists and one civilian in June 2001.

The NHRC investigated 285 reported cases of encounter deaths allegedly committed by the Andhra Pradesh police in connection with anti-People's War Group (PWG) operations. According to the Andhra Pradesh Civil Liberties Committee, the NHRC had evidence of police culpability in several cases. However, such cases had not been adjudicated in the courts or otherwise acted on by the state government. The Government's failure to act expeditiously on NHRC findings discouraged local human rights groups from filing additional encounter death cases with the NHRC. As evidence that encounters often were faked by police, human rights groups cited the refusal of police officials to turn over the bodies of suspects killed. The bodies often were cremated before families could view them. The trial continued in the 2001 NHRC investigation of 285 reported cases of encounter deaths allegedly committed by the Andhra Pradesh police in connection with anti-PWG operations.

In Andhra Pradesh, the Disturbed Areas Act had been in force in a number of districts for more than 4 years. Human rights groups alleged that security forces were able to operate with virtual impunity under the act. They further alleged that Andhra Pradesh police officers trained and provided weapons to an armed vigilante group known as the "Green Tigers," whose mission

was to combat the Naxalite group in the state. In November, two alleged LTTE terrorists were killed by the police in Tamil Nadu. Little was known about the size, composition, or activities of this group.

Court action in cases of extrajudicial killings was slow and uncertain. In one case, Army Major Avtar Singh was arrested in 1998 for the 1996 killing of human rights monitor Jilil Andrabi in Kashmir. Singh and 11 countermilitants were charged with Andrabi's killing and 10 other unlawful killings. Criminal charges and a court martial still were pending against Singh at year's end. Human rights workers alleged that the central Government and the Jammu and Kashmir state government both attempted to subvert the judicial process by withholding evidence in the case. There were no developments in the 1996 killing of human rights monitor Parag Kumar Das, who allegedly was killed by a militant who previously had surrendered and was supported by the Government.

Police frequently used excessive force indiscriminately against demonstrators, killing citizens (see Section 2.b.).

In July the Supreme Court ordered regular checks on police stations to ascertain the incidence of custodial violence against persons. The Court directed state human rights commissions and other civic rights protection committees to conduct surprise checks. These checks were conducted in a small number of police stations in the States of Madhya Pradesh and West Bengal.

Deaths in custody were common both for suspected militants and other criminals. According to the NHRC, there were 1,305 reported deaths in custody nationwide during 2001, the latest year for which data were available. Many died from natural causes aggravated by poor prison conditions (see Section 1.c.).

For example, in April Karna Chetri was found dead in the Sardar Police Station in Assam following a reported scuffle and a bullet injury. In May several police officers reportedly beat to death a retired police officer at the Gauripur police station in Guwahati, Assam. The retired police officer had entered the station to seek the release of his son who had been arrested for reckless driving. The son was also tortured by the police, but no one was held accountable. In May police detained and beat to death Amit Arora at the police station in Jaipur, Rajasthan. Arora reportedly had planned to expose a corrupt police unit in Jaipur. Citizens protested local police after police denied the death. The police ordered an inquiry into the death, filed charges against some of police responsible, and transferred 37 police officers to another station by year's end. In August the police detained a member of the CPI (ML) in Janashakti under suspicion of Naxalite activities. When he was taken to the hospital one day later, doctors declared that he had died in custody. After an investigation by the police, the Andhra Pradesh Home Minister Goud ordered the installation of video cameras in jails; however, by year's end the order had not been implemented.

The NHRC focused on torture and deaths in custody by directing district magistrates to report all deaths in police and judicial custody to the commission and stating that failure to do so would be interpreted as an attempted coverup. Magistrates appeared to be complying with this directive, although states varied in their adherence to NHRC directives on custodial deaths. However, security forces were not required to report custodial deaths in Jammu and Kashmir or the northeastern states to the NHRC and did not do so. The final Criminal Investigation Department report of Uttar Pradesh concluded that the cause of Ram Kishore's 1993 death was natural, due to heart problems. There reportedly was no action taken or formal investigation into the July 2001 death of the Masood in Jammu and Kashmir. In addition, there was no report from the Home Ministry and Defense Ministry regarding media reports of custodial deaths, which the NHRC requested in 2001.

During the year, some state governments took some measures regarding custodial deaths. Following NHRC guidelines, in 2001 the state government of Maharashtra mandated automatic post-mortem examinations and inquiries by a magistrate following all cases of custodial deaths. The district jail in Pune, the state's second largest city, became the first in the country to adopt video-conferencing to help magistrates determine the health and well-being of persons in judicial custody (see Section 1.c.).

In Bihar the NHRC recorded 144 custodial deaths in its 2001-2002 reporting period. According to the NHRC, the Bihar government had not been responsive to NHRC directives and reports addressing police training and accountability. However, the Bihar Inspector General of Prisons reportedly stated that of the 144 cases, only 15 were "unnatural deaths." Human rights sources claimed that the number was higher. The NHRC Chairperson stated that Bihar had the second highest number of human rights violations in the country, and it had not yet formed a State Human Rights Commission.

Killings and abductions of suspected militants and other persons by progovernment countermilitants continued to be a significant problem in Jammu and Kashmir. Countermilitants were members of police auxiliary units consisting of former separatists who surrendered to government forces, but who retained their weapons and paramilitary organization. Government agencies funded, exchanged intelligence with, and directed the operations of countermilitants as part of the counterinsurgency effort. The Government also recruited countermilitants into the Special Operations Group of the Jammu and Kashmir police and into the Border Security Force. Countermilitants were known to search persons at roadblocks (see Section 2.d.) and guard large areas of the Kashmir Valley from attacks by militants. The Government, through its sponsoring and condoning of extrajudicial countermilitant activities, was responsible for killings, abductions, and other abuses committed by these militant groups. According to a 2000 estimate, as many as 3,000 countermilitants continued to operate in Jammu and Kashmir, particularly in the countryside, outside major towns.

Insurgency and ethnic violence was a problem in the seven northeastern states. The main insurgent groups in the northeast included two factions of the National Socialist Council of Nagaland (NSCN) in Nagaland; Meitei extremists in Manipur; the ULFA and the Bodo security forces in Assam; and the All Tripura Tiger Force (ATTF) and the National Liberation Front of Tripura (NLFT) in Tripura. The proclaimed objective of many of these groups was to secede from the country. Their stated grievances

against the Government ranged from charges of neglect and indifference to the widespread poverty of the region to allegations of active discrimination against the tribal and nontribal people of the region by the central Government (see Section 5). The oldest of these conflicts, involving the Nagas, dates back to the country's independence in 1947. During the year, talks continued between various insurgent groups and central and state government officials. In July the Government and the National Socialist Council of Nagaland-Isaac and Muivah (NSCN-IM) announced the extension of the unilateral August 2001 cease-fire, which was extended until August 2003. The talks between the Government and the NSCN-IM continued when representatives of the two met in Malaysia. Subsequently, the talks also led to the withdrawal of arrest warrants against NSCN-IM leaders by the Nagaland Chief Minister. Unlike in previous years, the Government's extended cease-fire was not resisted in Manipur, Assam, and Arunachal Pradesh, and there were no reports of protests as a result of the continued cease-fire.

Surrenders by militants in the northeast, often under government incentive programs, were common in recent years. Surrendered militants usually were given a resettlement and retraining allowance and other assistance. In Andhra Pradesh, the state government offered a financial package to surrendered PWG militants, a program that prompted hundreds of Naxalites to leave the movement in recent years. According to human rights activists and journalists, a few surrendered militants were allowed to retain their weapons and were working for the police as anti-PWG officers, residing in police camps and barracks. Human rights groups alleged that police used former militants to kill Naxalites and human rights activists with close links to the PWG, although police attributed such killings to internal feuds within the PWG. Several hundred PWG militants surrendered during the year.

In Tripura a systematic surrender of arms by a faction of NLFT insurgents and NLFT fringe groups was due to the increased security pressure and to infighting within NLFT insurgent ranks. Since 2000 a few hundred militants surrendered in small groups to the security forces, handing in their weapons.

The killings of ULFA leaders' family members during the year renewed concerns about the situation in Assam. On January 4, unidentified assailants shot and killed three relatives of two ULFA militants, including two relatives of ULFA deputy commander in chief Raju Baruah. In addition, ULFA militants killed Avinash Bordoloi and two other surrendered ULFAs in Nalbari district. On June 25, five tribal militants were killed and several were injured during a series of encounters between NLFT and ATTF at Takarjala in Tripura. More than 87,000 persons lived under poor conditions in relief camps in Assam's Kokrajhar, Gosaigaon, and adjoining districts as a result of the ongoing violence between Bodos and Santhals (see Section 2.d.).

Militant groups in Manipur, Tripura, and Assam continued to attack civilians. For example, in April four tribals were killed after they had been abducted by NLFT militants in West Bengal's Takajala area. In June two Gorkha Rifles personnel were killed, and five others were injured by NSCN (IM) militants. In August NLFT killed four CPM activists in Kanchanpur, Tripura. On October 27, NDFB militants killed 22 villagers in Datgiri in Assam's Kokerajhar district.

In Assam 97 civilians, 206 militants, and 25 security force personnel were killed in clashes with militants during 2001.

In Manipur 25 civilians, 72 militants, and 34 security force personnel were killed in clashes with militants during the year. The Manipur government declared a month-long ceasefire with militants in March 2001, but numerous persons were killed in counterinsurgency incidents after the ceasefire went into effect. In Manipur 18 militant groups reportedly were active, including outlawed Meitei organizations.

In Tripura separatist-related violence continued and resulted in the deaths of 73 civilians, 28 militants, and 30 security force personnel.

In Nagaland 2 civilians, 13 militants, and 2 security force personnel were killed in clashes with militants during the year. Throughout the year, talks continued between various Naga separatists and central and state government officials. In November the Government decided now to renew a ban on the Naga group, NSCN-IM, in anticipation of talks with the NSCN-IM. The Government's continued negotiations with Naga separatists over a cease-fire caused significant unrest in Nagaland and in neighboring states.

In the north-central states of Bihar, Jharkhand, Orissa, and West Bengal, clashes between police officers and PWG continued. For instance, in January PWG members detonated a bomb in Gumla district, which killed 11 persons, including 9 policemen. On November 19, PWG members detonated a bomb on a bus in Andhra Pradesh, which killed 14 persons. On December 26, PWG members attacked a village and killed seven persons, including women and children. The police sometimes responded with violence; for example, in January 2001, an activist of the Communist Party of India Liberation Front was killed and five others injured police fired on a procession of the Naxalite party in Gaya district of Bihar (see Section 2.b.). According to police, 82 Naxalites were killed in armed encounters during the year. Twenty years of guerrilla-style conflict between state authorities and Naxalites led to serious human rights abuses committed by both sides.

Killings of security force members by militants in Jammu and Kashmir increased for the fourth year in a row. According to official statistics, 181 security force personnel were killed in the state during the year.

During the year, militant groups in Jammu and Kashmir targeted civilians, members of the security forces, and politicians. According to the Minister of State for Home, militants had killed 907 civilians as of November 15, compared with 996 in 2001. For example, in two separate attacks in May and November, terrorists entered Hindu Raghunath Temple and killed 25 persons.

On May 15, 30 persons were killed and 48 injured by militants in Kaluchak when gunmen opened fire on a bus and stormed an army camp. In May militants killed moderate Kashmiri separatist leader Abdul Gani Lone at a political meeting in Srinagar. The militant group Al-Badr claimed responsibility for the Abdul Gani killing. In June three policemen were killed and several injured by militants in Srinagar. On July 14, militants killed 28 persons in Rajiv Nagar slum area in Jammu. In August 9 Hindu pilgrims were killed and 30 injured by militants in Pahalgam during the annual Amarnath Yatra (see Section 2.c.). In November six members of the India's Central Reserve Police Force were killed and nine injured by two militants in a suicide attack on a police camp in Kashmir. On December 20, Abdul Aziz Mir, a People's Democratic Party member of the state assembly, was killed by militants while returning home from Friday prayers. The militant group Save Kashmir Movement claimed responsibility for the Abdul Aziz Mir killing.

There reportedly was no action taken against the responsible militants in the following cases: The January 2001 killing of two civilians on the Kashmir airport; the January 2001 grenade attack on Farooq Abdullah in Srinagar; the November 2001 killing of four soldiers by LET terrorists in Anantnag District; the August 2000 killing of six Hindu villagers in Jammu. However, in the December 2000 killing of a soldier and two civilians at Delhi's Red Fort, a trial was ongoing and has resulted in one conviction to date.

Nearly 800 persons were killed and 500 civilians were injured in violence related to the October Jammu and Kashmir Legislative Assembly polls (see Sections 1.g. and 4).

Religious and ethnically motivated violence caused numerous deaths, and there were reports that Government agents encouraged this behavior (see Section 5).

Mob lynchings of tribal people occurred in many states (see Section 5).

b. Disappearance

According to human rights groups, unacknowledged, incommunicado detention of suspected militants continued in Jammu and Kashmir. In October 2001, the government of Jammu and Kashmir stated that during the last 6 years, 2,250 persons were reported missing. The state government claimed that most of those who disappeared were young men who crossed into Pakistan-controlled Kashmir for training in terrorist camps.

According to the Kashmir Times, 152 militants were arrested between January and November. In comparison, according to the Ministry of Home Affairs, 645 suspected militants were arrested in 2000. Human rights organizations alleged that the decline in the number of militants arrested was consistent with reports that security forces were killing many militants captured in encounters (see Section 1.a.); that pattern continued during the year. According to an AI report released in 2000, there have been between 700 and 800 unsolved disappearances in Kashmir since 1990. In the northeastern states, the Government was unable to provide complete statistics for the number of persons held under special security laws, but acknowledged that 43 persons were in detention under the National Security Act as of 1998. Although the Government allowed the Terrorist and Disruptive Practices (Prevention) Act (TADA) to lapse in 1995, one human right organization credibly reported that more than 1,000 persons remained in detention awaiting prosecution under the law. Several thousand others are held in short-term (1-day to 6 months' duration) confinement in transit and interrogation centers.

In June in Rawalapora numerous persons gathered to protest the alleged custodial disappearance of Manzoor Ahmad Dar. Dar allegedly was detained by Special Operations Group (SOG) of the Jammu and Kashmir police. Later in the year, the police admitted involvement; however, they denied any claim that the disappearance was the work of the security forces.

There were no developments in the case of Chundrakpam Ongabi Sumila's husband, who was abducted in May 2001 by suspected Assam Rifles. In addition, there were no developments in the February 2000 disappearance of M. Akbar Tantray.

Human rights groups maintained that in Jammu and Kashmir and in the northeastern states several hundred persons were held by the military and paramilitary forces in long term unacknowledged detention in interrogation centers and transit camps that nominally were intended only for short term confinement. Human rights groups feared that many of these unacknowledged prisoners were subjected to torture and extrajudicial killing (see Sections 1.a. and 1.c.). In August 2000, AI reported that the disappearances of up to 1,000 persons reported missing in Jammu and Kashmir since 1990 remained unexplained by authorities.

The Government maintained that screening committees administered by the state governments provided information about detainees to their families. However, other sources indicated that families were able to confirm the detention of their relatives only by bribing prison guards. In November the state government of Jammu and Kashmir responded to this problem by installing a screening system to review old detention cases and released numerous detainees (see Section 1.d.).

In Punjab the pattern of disappearances prevalent in the early 1990s appeared to have ended. Hundreds of police and security officials were not held accountable for serious human rights abuses committed there during the counterinsurgency of 1984-94. The Central Bureau of Investigation (CBI) claimed to be pursuing actively charges against dozens of police officials implicated in the "mass cremations" in which police in Amritsar, Patti, and Tarn Taran district secretly disposed of approximately 2,000 bodies of suspected militants. The militants were believed to have been abducted, extrajudicially executed, and cremated

without the knowledge or consent of their families. During the year, the NHRC examined the cases of 585 fully identified bodies to ascertain whether police officers had been responsible for the deaths or for any human rights violation; however, the Government continued to challenge the NHRC's jurisdiction in the cases. By year's end, no significant progress was made in identifying the cremated bodies or bringing to justice those responsible for the killings. These numbers demonstrated the extent of the violence during those years and, given the pattern of police abuses prevalent during the period, credibly included many persons killed in extrajudicial executions. In 1998 former Justice Singh announced that the Committee for the Coordination on Disappearances in Punjab (CCDP) would form a three-member commission to investigate the mass cremations. The Commission met with inaction on the part of the authorities and made little progress during the year (see Section 4).

AI expressed concern that Punjab police officials continued to obstruct the judicial inquiry into the death of human rights monitor Jaswant Singh Khaira. During the year, the case was scheduled for recording evidence in a Session court; however, by the time evidence started to be recorded in November, a key witness denied having been witness to Khaira's disappearance into police custody. Before his death, Khaira was investigating the cremation of unidentified bodies by Tarn Taran police. These and other events prompted extended public debate over the accountability of Punjab police for abuses committed while suppressing a violent insurgency. According to human rights monitors in Punjab, approximately 100 police officials either faced charges, were prosecuted, or were under investigation for human rights abuses at year's end.

There were credible reports that police throughout the country often did not file required arrest reports. As a result, there were hundreds of unsolved disappearances in which relatives claimed that an individual was taken into police custody and never heard from again. Police usually denied these claims, countering that there were no records of arrest. There were no developments in the 2001 cases of the four persons arrested without an arrest memo and held by Border Security Force (BSF) officers in Churachandpur district.

In Manipur 14-year-old Yumlembam Sanamacha has been missing ever since soldiers arrested him in 1998. During the year, there was a judicial review into the Sanamacha case, and the family was awarded compensation from the state government of \$6,250 (RS 300,000); however, by year's end, the award had not been given to the family.

Militants in Jammu and Kashmir and the northeastern states continued to use kidnappings to terrorize the population, seek the release of detained comrades, and extort funds. Sometimes kidnaped persons later were killed (see Sections 1.a. and 1.g.). There were 211 reported kidnappings in the northeastern states during the year. For example, on September 1, suspected NLFT militants abducted an 8-year-old boy from a village in Dhalai district, Tripura. On December 19, NLFT militants abducted three sons of a local level leader in the same district.

During the year, there were no developments in the following 2001 cases of kidnappings by militants: The January kidnaping of a CPM worker from Dhalai district; the July kidnaping of Parthapratim Roy Burman; the August kidnaping of Sambhu Nath and Ram Avtar Chakravarty in south Assam; the August kidnaping of six persons from Rangrung tea estate in North Tripura; the August kidnaping of seven Hindu youths in the Rajouri district of the Kashmir valley in Jammu and Kashmir; and the August kidnaping of a group of Hindu shepherds in Doda district.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture, and confessions extracted by force generally are inadmissible in court; however, authorities often used torture during interrogations. In other instances, authorities tortured detainees to extort money and sometimes as summary punishment.

The U.N. Special Rapporteur on Torture reported that the security forces systematically tortured persons in Jammu and Kashmir to coerce confessions to militant activity, to reveal information about suspected militants, or to inflict punishment for suspected support or sympathy with militants. Information was not made public regarding any instances of action taken against security force personnel in Jammu and Kashmir for acts of torture.

In June members of the security forces tortured and killed the brother of an alleged terrorist from Kupwara. Police alleged the victim died in a skirmish while he was leading them to a terrorist hideout. There were no reports of an investigations by year's end. There were no developments in the following 2001 cases: The February torture of a man from Surankot; the torture of Gulzar Ahmad Ganie; or the death of students Shiraz Ahmad Khan and Syed Malik.

The U.N. Special Rapporteur on Torture noted that methods of torture included beating, rape, crushing the leg muscles with a wooden roller, burning with heated objects, and electric shocks. Because many alleged torture victims died in custody, and others were afraid to speak out, there were few firsthand accounts, although marks of torture often were found on the bodies of deceased detainees. Unlike in the previous year, the Home Ministry did not extend an invitation to the U.N. Special Rapporteurs on Torture and on Extrajudicial Killings or the Special Rapporteur on Extrajudicial killings.

The prevalence of torture by police in detention facilities throughout the country was reflected in the number of cases of deaths in police custody (see Section 1.a.). New Delhi's Tihar jail was notorious for the mistreatment of prisoners, with approximately 10 percent of custodial deaths occurring there. Police and jailers typically assaulted new prisoners for money and personal articles. In addition, police commonly tortured detainees during custodial interrogation. Although police officers were subject to prosecution for such offenses under the Penal Code, the Government often failed to hold them accountable. According to AI,

torture usually takes place under two contexts: In the course of regular criminal investigations and following unlawful and arbitrary arrests. For example, during criminal investigation police frequently resorted to torture to extract information from suspects while in custody, and legislation was reported to be misused during which torture frequently took place. There were no developments in the 2001 case of the torture of prisoner Yunus Fakir Mohammad Shaikh.

Police also tortured other citizens. In November a 37-year-old man was arrested by the police in Chennai on charges of belonging to an extremist political organization. According to a local NGO, he was kept in custody for 4 days and tortured. At year's end, charges had not been filed. In April 2001 a 14-year-old girl allegedly was abducted, tortured with electric shocks, and raped for 6 days by the Patiala police (see Sections 1.g. and 5). At year's end, no police officer had been charged.

There also were incidents in which police beat journalists (see Section 2.a.), demonstrators (see Section 2.b.), and Muslim students (see Section 2.c.). Police also committed abuses against tribal people (see Section 5).

The rape of persons in custody was part of the broader pattern of custodial abuse. NGOs asserted that rape by police, including custodial rape, was more common than NHRC figures indicated. Although evidence was lacking, a higher incidence of abuse appeared credible, given other evidence of abusive behavior by police and the likelihood that many rapes were unreported due to a sense of shame and a fear of retribution among victims. However, limits placed on the arrest, search, and police custody of women appeared effectively to limit the frequency of rape in custody. In January a tribal woman alleged that she was raped by the head constable in Vaniyambadi Police Station in Tamil Nadu after being arrested on theft charges.

There reportedly was no action taken against members of the security forces responsible for the following 2001 cases of rape of persons in custody: The October rape of a tribal woman and the rape of Mary Lushai in Dhalai, Tripura. At year's end, the Government had not disciplined or charged the police officers involved in the September 2000 rape of a 16-year-old girl arrested on suspicion of petty theft, despite repeated requests from the court. There were no developments in the July 2000 case of the rape of a tribal housewife in Lamdam village, Manipur by Central Reserve Police Force (CRPF) personnel. The CRPF alleged that the rape was committed in retaliation for an attack carried out on a CRPF patrol by People's Liberation Army militants the previous day (see Section 1.g.).

In April a 17-year-old girl alleged three BSF force personnel in Pahalgam raped her. She stated that the BSF forces forced their way into her home and raped her at gunpoint. In April the state ordered an inquiry into the rape.

There was a pattern of rape by paramilitary personnel in Jammu and Kashmir and the northeast as a means of instilling fear among noncombatants in insurgency-affected areas (see Section 1.g.), but it was not included in NHRC statistics because it involved the military forces. According to an NGO in Kashmir, there were 200 rapes by paramilitary personnel in 2000. Another NGO reported 10 cases of rape during the year.

The NHRC had not released the statistics of its actions against police during the year.

Some militant groups in the northeast used rape as a tactic to terrorize the populace; however, no cases were known to be reported during the year.

According to press reports, prison officials used prisoners as domestic servants and sold female prisoners to brothels (see Sections 5, 6.c., and 6.f.).

In Jammu and Kashmir, torture victims or their relatives reportedly had difficulty in filing complaints because local police were issued instructions not to open a case without permission from higher authorities. In addition, the (Jammu and Kashmir) Special Powers Act provides that unless approval is obtained from the central Government, no "prosecution, suit, or other legal proceeding shall be instituted...against any person in respect of anything done or purported to be done in exercise of the powers of the act." This provision allowed the security forces to act with virtual impunity.

The Government occasionally used excessive force in putting down demonstrations (see Section 2.b.). For example, AI reported that on July 20 police officers beat villagers who resisted police efforts to forcibly evict the villagers from their homes in Madhya Pradesh. AI recounted that approximately 400 police officers reportedly entered Khedi Balwadi and started pulling and dragging persons into vans. If persons tried to resist this police action, they were beaten severely. The villagers were taken to a resettlement site.

The Government also occasionally used excessive force against tribal people. For example, in October police shot at three tribal persons in Orissa. In response to this incident, the Chief Minister suspended the District Superintendent of Police and the Additional District Magistrate. In addition, a three-member ministerial committee was ordered to inquire into the incident. There reportedly were no developments in the investigation of the April 2001 killing of 5 tribal persons in Madhya Pradesh or the March 2001 shooting of a Naxalite in Maraknar.

Police corruption undermined efforts to combat trafficking in women and children (see Section 6.f.).

Religiously motivated violence led to a number of deaths and injuries as well as damage to property (see Sections 1.a., 1.g.,

and 5).

Prison conditions were very poor. Prisons were severely overcrowded, and the provision of food and medical care frequently was inadequate.

After a March 30 revolt by inmates in Bihar, the NHRC visited the Chhapra jail to study the circumstances that led to the revolt and subsequently to the Government entering the prison. During and after the government intervention, six inmates were killed. The result of the study was a NHRC report critical of the jail authorities for continued poor prison conditions.

In April hundreds of prisoners at the Divisional Jail in Bihar went on hunger strike to protest the assault on two of their colleagues by prison staff. The Government held talks with the prisoners. The prisoners demanded action against the officials involved in the assault.

Overcrowding in prisons was common. For example, the Divisional Jail in Bihar had a planned capacity of 212 prisoners but held 750 inmates. Prisons operated above capacity because more than 60 percent of the prison population were persons awaiting hearings (see Section 1.d.). In Kashmir persons awaiting hearings made up 90 percent of prison population and in Bihar 80 percent. For example, New Delhi's Tihar jail, with a designed capacity of 3,300 persons, housed 9,000 prisoners. The Chennai Central Prison in Tamil Nadu, designed to hold 1,419 persons, housed more than 3,121 inmates. According to the SAHRDC, in the poorest states, such as Bihar, where 265 police stations had no lockup facilities, the lack of prisons led police to shackle prisoners to trees. The Prison Act remained unamended at year's end.

The 1,140 deaths in judicial custody reported to the NHRC during the year included a large proportion of deaths from natural causes that in some cases were aggravated by poor prison conditions (see Section 1.a.). A study conducted by the NHRC found that tuberculosis was the cause of death in most deaths in judicial custody. Deaths in police custody, which typically occurred within hours or days of initial detention, more clearly implied violent abuse and torture. However, in January 2001, the NHRC requested that the Commission be informed of any custodial death within 2 months and that a post-mortem report, magisterial inquest, and a video of the post-mortem be provided to the NHRC.

NGOs were allowed to work in prisons, within specific governmental guidelines. In Kerala and Karnataka, the state governments selectively cleared NGOs to visit prisons. Although custodial abuse is deeply rooted in police practices, increased press reporting and parliamentary questioning provided evidence of growing public awareness of the problem. The NHRC identified torture and deaths in detention as one of its priority concerns.

In September two transgender persons alleged that the Bandra railway police stripped them, locked them with alleged criminals, and encouraged the criminals to molest them. They reportedly were arrested for traveling without a train ticket, which normally merits a cash fine.

In prison, women were housed separately from men in similar conditions. By law juveniles must be detained in rehabilitative facilities; however, at times they were detained in prison, especially in rural areas. Pretrial detainees were not separated from the general prison population.

With the exception of an agreement with the International Committee of the Red Cross (ICRC) for visits to detention facilities in Jammu and Kashmir, the Government did not allow NGOs to monitor prison conditions in those regions (see Section 4). However, 15 states and union territories have authorized the NHRC to conduct surprise check-ups on jails. The NHRC's "Special Rapporteur and Chief Coordinator of Custodial Justice" helped implement its directive to state prison authorities to ensure that medical check-ups were performed on all inmates.

d. Arbitrary Arrest, Detention, or Exile

The Government implemented a variety of special security laws intended to help law enforcement authorities fight separatist insurgencies, and there were credible reports of widespread arbitrary arrest and detention under these laws during the year.

According to AI, the authorities continued to use the TADA, although it lapsed in 1995, to detain persons in Jammu and Kashmir. Human rights sources estimated that approximately 1,000 persons remained in custody under TADA or related charges at year's end. A small number of arrests under the TADA continued for crimes allegedly committed before the law lapsed. In November the Jammu and Kashmir governments established a committee to review detainees' cases; however, the committee had not met at year's end. TADA courts used abridged procedures. For example, defense counsel was not permitted to see witnesses for the prosecution, who were kept behind screens while testifying in court. Also, confessions extracted under duress were admissible as evidence. The special task force established by the state police forces of Karnataka and Tamil Nadu to capture a bandit hiding in forests in the border area between the 2 states had arrested some 121 persons under the TADA prior to the law's lapse; 51 of these persons still were in custody at year's end.

In March the Prevention of Terrorism Ordinance (POTO) was enacted into law and changed to the Prevention of Terrorism Act (POTA). The POTA allows detention without charge for 3 months, deems not disclosing information to the authorities about terrorist activities an offense, and provides extensive new powers to ban organizations and seize their assets. This ordinance is

similar to the TADA in that it permits detention for 30 days without trial, summary trials, and the use of testimony exacted under duress. In addition, the bill provides for special courts to try offenses, place the burden of proof at the bail stage on the accused, make confessions to a police officer of the rank of superintendent of police admissible as evidence, extend the period of remand from 15 to 60 days, and set mandatory sentences for terrorism-related offenses. Since the POTO and POTA were enacted, the Jammu and Kashmir police have arrested approximately 426 people, 50 percent of whom were charged with sheltering terrorists. In March Yasin Malik, Hurriyat leader and the Chairman of the Jammu and Kashmir Liberation Front, was arrested under POTA. He was released on bail in June; however, he was re-arrested the same day under the Jammu and Kashmir Public Safety Act (PSA), which does not require a charge. In November he was released again; however, he still faced charges under the POTA. In July in Madhya Pradesh, police invoked POTA against the Naxalites PWG.

In addition, the POTA was used to arrest members of various organizations and opposition political parties on charges of publicly expressing support of the banned LTTE terrorist group. For example, on July 11, police arrested Marumalachi Dravida Munnetra Kazhagam leader Vaiko for speaking in support of the LTTE at a public meeting. On August 1, Tamil Nationalist Movement leader Pazha Nedumaran was arrested for convening a conference in support of the LTTE in Chennai. In August police arrested P. Nedumaran under POTA for being a supporter of the Tamil terrorist group. At year's end, 15 persons had been arrested under the POTA.

In December a special court in New Delhi issued the first conviction under the POTA and ruled that four accomplices of the militants who attacked the Indian Parliament in December 2001 were guilty (see Section 1.g.). Three of the defendants were sentenced to death and the fourth was sentenced to 5 years imprisonment and fined \$200 (RS 10,000).

Preventive detention laws in the event of threats to public order and national security exist. An individual may be detained—without charge or trial—for up to 3 months, and detainees were denied their rights or compensation for unlawful arrest or detention. In addition to providing for limits on the length of detention, the preventive detention laws provide for judicial review. Several laws of this type remain in effect.

The National Security Act (NSA) permits the detention of persons considered to be security risks; police anywhere in the country (except for Jammu and Kashmir) may detain suspects under NSA provisions. Under these provisions, the authorities may detain a suspect without charge or trial for as long as 1 year on loosely defined security grounds. The NSA does not define "security risk." The state government must confirm the detention order, which is reviewed by an advisory board of three High Court judges within 7 weeks of the arrest. NSA detainees are permitted visits by family members and lawyers, and must be informed of the grounds for their detention within 5 days (10 to 15 days in exceptional circumstances). The Government was not able to provide figures on how many persons were detained nationwide under the NSA, but in 1997 there were 1,163 such persons. According to press accounts during the year, there were no cases of persons detained under NSA in the northeast. Human rights groups alleged that preventive detention may be ordered and extended under the act purely on the opinion of the detaining authority and after advisory board review. No court may overturn such a decision.

The PSA covers corresponding procedures for that state. More than half of the detainees in Jammu and Kashmir were held under the PSA. Under these provisions, the authorities may detain a suspect for detention without charge and without judicial review for up to 2 years; suspects do not have access to family members or legal council. For example, in June Syed Ali Shah Geelani, a senior Hurriyat leader, and his two sons-in-law were detained under the PSA and the Officials Secrets Act (see Section 2.a.). The Government charged Geelani with money laundering and possession of armed forces documents and charged his sons-in-law with possession of classified materials. At year's end, Geelani and one son-in-law remained in jail in Ranchi, Jharkand. The second son-in-law was released in November.

The Supreme Court upheld the constitutionality of the Armed Forces Special Powers Act (AFSPA). In a representation made to the NHRC, the South Asia Human Rights Documentation Center (SAHRDC) asserted that the act's powers were "too vast and sweeping and posed a grave threat to the fundamental rights and liberties of the citizenry of the (disturbed) areas covered by the act." The SAHRDC also asserted that the powers granted to authorities to declare any area to be a "disturbed area," and thus subject to the other provisions of the act, were too broad. Moreover, the SAHRDC noted that the act empowered any commissioned officer, warrant officer, noncommissioned officer, or any other person of equivalent rank in the armed forces to fire upon and otherwise use force, even to the point of death, if he believed that it was necessary for the maintenance of law and order. Further, the act states that "no prosecution, suit, or other legal proceedings shall be instituted, except with the previous sanction of the central Government against any person in respect of anything done or purported to be done in exercise of powers" conferred by the act. The SAHRDC believed that many custodial deaths and extrajudicial killings had been committed as a result of the power granted to the armed forces under AFSPA.

In June 2001, the police placed 23,000 opposition party leaders and workers, mostly from the DMK party, into preventive detention for 4 days in Tamil Nadu. Police organized the arrests to forestall civil disorder after the arrest of former DMK Chief Minister Karunanidhi on criminal conspiracy charges. Opposition leaders and human rights activists alleged that the roundup was unprecedented in scale and was intended to intimidate the opposition. The arrests led to the overcrowding of already congested jails. In July 2001, the NHRC asked the Tamil Nadu state government to justify the arrests and explain apparent human rights violations. According to the NGO People's Watch, the state government responded to the inquiry by questioning the validity of the NHRC, and by year's end, the matter had been referred to the Supreme Court.

In 2001 in Madurai Central prison, 3,008 opposition figures joined 1,900 inmates in a facility designed for only 1,200 persons. Some of the opposition leaders taken into preventive detention were released after 4 to 5 days with no charges filed against them.

Human rights groups alleged that between June and August, police detained 30 members of teachers' unions and other activist groups in Warangal and Mahboobnagar on suspicion of PWG membership. Police allegedly tortured some of the detainees and the teachers reportedly were ordered to resign from their jobs.

The Constitution provides that detainees have the right to be informed of the grounds for their arrest, to be represented by counsel, and, unless held under a preventive detention law, to appear before a magistrate within 24 hours of arrest. At this initial appearance, the accused either must be remanded for further investigation or released. The Supreme Court has upheld these provisions. The accused must be informed of the right to bail at the time of arrest and may, unless held on a nonbailable offense, apply for bail at any time. The police must file charges within 60 to 90 days of arrest; if they fail to do so, court approval of a bail application becomes mandatory.

A program of prison visits by the ICRC was designed in part to help assure communications between detainees and their families. During the year, the ICRC visited hundreds of detainees in approximately 20 places of detention, including all acknowledged detention centers in Jammu and Kashmir, and also visited Kashmiri detainees elsewhere in the country. However, the ICRC was not authorized to visit interrogation centers or transit centers, nor did it have access to regular detention centers in the northeastern states (see Sections 1.c. and 4). During the year, the ICRC stated that it encountered increasing difficulties in maintaining systematic access to people detained in connection with the situation in Jammu and Kashmir.

The court system was extremely overloaded, resulting in the detention of thousands of persons awaiting trial for periods longer than they would receive if convicted. Prisoners were held for months or even years before obtaining a trial date. According to a report by the Home Affairs, there were 24 million cases pending during the year, and some cases had been pending since 1950. In July the Law Minister told Parliament that more than 500,000 cases were pending for more than one decade. In 1999 the chairman of the NHRC stated that 60 percent of all police arrests were "unnecessary and unjustifiable" and that the incarceration of those wrongly arrested accounted for 43 percent of the total annual expenditure on prisons. The commission found that 90 percent of the 780 inmates that it studied were unconvicted prisoners awaiting completion of trial.

In March 2001, the NHRC reported that it had directed the West Bengal Government to pay \$1,044 (RS 50,000) in compensation to the court guardian of a 12-year-old girl who was in the custody of the West Bengal police for nearly a decade because she was the sole witness to her parents' murder. The case against then-Bihar Minister of State for Cooperatives Lalit Yadav, his cousin, and four others still was pending at year's end for the alleged illegal detention and torture of a truck driver and cleaner at the minister's residence.

In 2000 the Government announced that it was allocating \$108.15 million (RS 5.03 billion) to state governments for the creation of 1,734 additional courts during 2000-2005 to hear more cases and reduce the number of remand prisoners. At year's end, 706 of these courts had been set up.

There were political detainees reported during the year.

The Government did not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, serious problems remained. The judiciary was backlogged and understaffed in most parts of the country, and in Jammu and Kashmir, the judiciary barely functioned due to threats by militants and to frequent refusal by security forces to obey court orders.

Courts of first resort exist at the subdistrict and district levels. More serious cases and appeals are heard in state-level high courts and by the national-level Supreme Court, which also rules on constitutional questions. State governments appoint subdistrict and district judicial magistrates. High court judges are appointed on the recommendation of the federal Law Ministry, with the advice of the Supreme Court, the High Court Chief Justice, and the chief minister of the State, usually from among district judges or lawyers practicing before the same courts. Supreme Court judges are appointed similarly from among High Court judges. The Chief Justice is selected on the basis of seniority. Under a Supreme Court ruling, the Chief Justice, in consultation with his colleagues, has a decisive voice in selecting judicial candidates. The President appoints judges, and they may serve up to the age of 62 on the state high courts and up to the age of 65 on the Supreme Court.

When legal procedures functioned normally, they generally assured a fair trial, but the process often was drawn out and inaccessible to poor persons. The Criminal Procedure Code provides for an open trial in most cases, but it allows exceptions in proceedings involving official secrets, trials in which statements prejudicial to the safety of the State might be made, or under provisions of special security legislation. Sentences must be announced in public. Defendants have the right to choose counsel from attorneys who are fully independent of the Government. There were effective channels for appeal at most levels of the judicial system, and the State provides free legal counsel to the indigent. Defendants are allowed to question witnesses against them, present their own witnesses and evidence, and have access to government evidence held against them.

Muslim personal status law governs many noncriminal matters involving Muslims, including family law, inheritance, and divorce.

The Government does not interfere in the personal status laws of the minority communities, and as a result personal status laws that discriminate against women are upheld.

In Jammu and Kashmir, the judicial system barely functioned due to threats by militants against judges, witnesses, and their family members; because of judicial tolerance of the Government's heavy-handed antimilitant actions; and because of the frequent refusal by security forces to obey court orders. Courts in Jammu and Kashmir were reluctant to hear cases involving terrorist crimes and failed to act expeditiously on habeas corpus cases, if they acted at all. There were a few convictions of alleged terrorists in the Jammu High Court during the year; many more accused militants had been in pretrial detention for years.

Criminal gangs in all four southern states were known to attack rivals and scare off complainants and witnesses from court premises, denying free access to justice. In some cases, accused persons were attacked while being escorted by police to the courts.

The U.N. Special Rapporteur on the Independence of the Judiciary was not invited to visit the country during the year.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The police must obtain warrants for searches and seizures. In a criminal investigation, the police may conduct searches without warrants to avoid undue delay, but they must justify the searches in writing to the nearest magistrate with jurisdiction over the offense. The authorities in Jammu and Kashmir, Punjab, and Assam have special powers to search and arrest without a warrant.

The Government Enforcement Directorate (ED), which was mandated to investigate foreign exchange and currency violations, searched, interrogated, and arrested thousands of business and management professionals annually, often without search warrants. However, the ED ultimately convicted very few persons. According to official figures, in 1999, the latest year for which figures are available, there were 387 searches or raids by the ED, resulting in 107 prosecutions and 29 convictions.

The Telegraph Act authorizes the surveillance of communications, including monitoring telephone conversations and intercepting personal mail, in case of public emergency or "in the interest of the public safety or tranquillity." Every state government has used these powers, as has the central Government.

The Information Technology Act includes provisions that grant the police powers to search premises and arrest individuals without a warrant. Under the Act, the maximum sentences for failing to provide information to the Government on request and transmitting "lascivious" material were 1 year and 5 years respectively. The Act also requires Internet cafes to monitor Internet use and inform the authorities (see Section 2.a.). At year's end, one person had been arrested under the Act, but he was released after some confusion about the nature of the alleged offense. NGOs criticized the Act, stating that its provisions were Draconian.

The Government did not restrict citizens' personal appearance; however, in Kashmir and Manipur dress codes were announced. The Kanglei Yawon Kanna Lup in Manipur announced a dress code for the state's women that bans the wearing of saris, salwar kameez, and trousers. The group threatened to punish with death women who violated the code, and it urged women to wear the traditional Phanek and Chador on all occasions but allowed girls to wear salwars as school uniforms. In Kashmir the militant group Lashkar-e-Jabbar ordered Muslim women to dress in burqas, Hindu women to wear bindis, and Sikh women to wear identifying saffron headscarves (see Sections 2.c. and 5).

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Government forces committed numerous serious violations of humanitarian law in the disputed State of Jammu and Kashmir. Between 350,000 and 450,000 army and paramilitary forces were deployed in Jammu and Kashmir, although the Government did not release official figures. The Muslim majority population in the Kashmir Valley suffered from the repressive tactics of the security forces. Under the Jammu and Kashmir Disturbed Areas Act, and the Armed Forces (Jammu and Kashmir) Special Powers Act, security force personnel had extraordinary powers, including authority to shoot suspected lawbreakers and those persons disturbing the peace, and to destroy structures suspected of harboring militants or arms.

The Union Home Ministry was unable to estimate how many civilians were killed in crossfire by security forces in Jammu and Kashmir during the year. The security forces continued to abduct and kill suspected terrorists, but they did not accept accountability for these abuses. Many commanders' inclination not to participate in such practices led to a reduced number of cases, and as a result government-supported countermilitants often committed these abuses.

According to credible reports, in addition to harassment during searches and arbitrary arrests (see Section 1.d.), security forces abducted and sometimes used civilians as human shields in night patrolling and searching for landmines; the abuses occurred mostly in the Kupwara and Doda districts. Because of Doda's inaccessibility, the abuses there allegedly were underreported.

The continued incursion of Pakistani-backed armed insurgents into territory on the Indian side of the line of control (LOC) in the State of Jammu and Kashmir resulted in an increased counterinsurgency campaign, accompanied by repressive offensive measures. Mortar and small arms fire across the LOC killed an unknown number of civilians during the year. For example, on May 30, 14 persons, including 3 army soldiers and 11 civilians, were killed in overnight artillery shelling and mortar fire. According to a government official, security forces killed 1,471 militants during the year. On January 19, three militants and a soldier were killed in gunfights in Jammu and Kashmir.

Kashmiri militant groups also committed serious abuses, including numerous execution-style mass killings of Hindu (Pandit), Sikh, and Buddhist villagers in Jammu and Kashmir (see Sections 1.a. and 5). Militant groups also killed police officers and members of the security forces. In February militants killed eight Hindus, including six children in the Rajouri district. On May 21, militants shot and killed prominent Hurriyat leader Abdul Ghani Lone during a memorial rally in Srinagar. Between August and October, 44 political workers were killed in Udhampur, Pulwama, Srinagar, Kupwara, and Baramulla by militants during the fall election campaign.

In addition to political killings, kidnappings, and rapes of politicians and civilians (see Sections 1.a., 1.b., and 1.c.), insurgents engaged in extortion and carried out acts of random terror that killed hundreds of Kashmiris. Many of the militants were Afghani, Pakistani, and other nationals. The militants used time-delayed explosives, landmines, hand grenades, and snipers. There was a significant upsurge in militant violence against security forces and a tendency to use heavy weapons such as hand grenades and rockets. Militants killed and injured numerous security personnel and destroyed a great deal of security force property; many civilians also were killed. For example, in January militants killed a Muslim family of 11, including 8 children, in the State of Jammu and Kashmir. In December a Delhi court found three Kashmiris guilty under the anti-terrorism law of helping militants plan and carry out the 2001 Parliament attack and sentenced them to death (see Section 1.d.).

Extremist and terrorist activities in the northeast also claimed many lives. In addition to ambushes, terrorists increasingly resorted to destroying bridges and laying time bombs on roads, on railway tracks, and in trains. For example, in May the Kuki Revolutionary Army killed 11 Assam Rifles personnel at Lapan area in Manipur. In June the insurgent group United Liberation Front of Asom killed one person in an attack on a police battalion in Bongaigaon in Assam. In April 2001, week-long fighting between 2 Naga insurgent groups left more than 45 persons dead; 4,500 persons were forced to flee 15 villages in Mon district.

During the year, police arrested numerous persons suspected of involvement in previous terrorist attacks and brought charges against some suspects. Charges also were brought against persons accused of involvement with human suicide bomb attacks to advance Sikh separatism, as well as against dozens of captured separatist insurgents in Jammu and Kashmir for bombings, killings, and acts of sabotage.

Landmines were a problem in Jammu and Kashmir and to some extent in Punjab. Landmines, booby traps, and unexploded ordnance posed a problem to resettlement of displaced persons and rebuilding. For example, in January 11 persons were killed in a landmine blast in Gumla district. In June two persons were killed and five injured in a landmine blast in Palamu district, Jharkhand. Militants previously restricted landmine use to army convoys traveling outside of major cities, but during the year they used command-detonated landmines in Srinagar city.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, there were some limitations. A vigorous and growing press reflected a wide variety of political, social, and economic beliefs. Newspapers and magazines regularly published investigative reports and allegations of government wrongdoing, and the press generally promoted human rights and criticized perceived government lapses.

Under the Official Secrets Act, the Government may restrict publication of sensitive stories or suppress criticism of its politics. For example, on June 9, Syed Iftikhar Gilani, the New Delhi bureau chief of the Kashmir Times, was imprisoned for allegedly possessing classified documents in violation of this act. Gilani alleged that the only evidence the Government presented to substantiate this charge was a 1995 public document that referred to human rights abuses committed by Indian security forces in Kashmir. At year's end, Gilani remained in detention.

In December Parliament passed a Right to Information law; at year's end, this bill was pending the President's approval. This act allows citizens to request and receive documents from the Government that are considered to be in the public domain.

In the print media, all publications were privately owned. In the electronic media, 80 percent of the channels were privately owned, and 20 percent were operated by Doordarshan, a semi-autonomous body controlled by the Government. Both wire services were semi-autonomous.

The Newspapers Incitements to Offenses Act remained in effect in Jammu and Kashmir. Under the Act, a district magistrate may prohibit the press from publishing material likely to incite murder or any act of violence. As punishment the Act stipulates that the authorities may seize newspaper premises and printing presses. Despite these restrictions, newspapers in Srinagar, the capital of Jammu and Kashmir, reported in detail on alleged human rights abuses by the Government and regularly

published press releases of Islamic separatist Kashmiri groups. The authorities generally allowed foreign journalists to travel freely in Jammu and Kashmir, where they regularly spoke with separatist leaders and filed reports on government abuses.

In Assam the state government attempted to impede criticism by filing a number of criminal defamation charges against journalists.

The Press Council is a statutory body of journalists, publishers, academics, and politicians, with a chairman appointed by the Government. Designed to be a self-regulating mechanism for the press, it investigates complaints of irresponsible journalism and sets a code of conduct for publishers. This code includes a commitment not to publish articles or details that might incite caste or communal violence. The Council publicly criticized newspapers or journalists it believed had broken the code of conduct, but its findings, while noted by the press community, carried no legal weight.

At the state level, regional political parties have the ability to influence regional media. The Indian Express, an independent newspaper, was unable to get advertising from the state government after its reporting on the Gujarat violence. In addition, a number of journalists who worked for English newspapers and the electronic media, who had criticized the Modi government and its political supporters, reportedly were subjected to "strong-arm" tactics by VHP and Bajrang Dal activists. These alleged "strong-arm" tactics included anonymous threatening phone calls and a "whispering campaign."

Authorities occasionally beat, detained, and harassed journalists, particularly in Jammu and Kashmir, which resulted in significant self-censorship. For example, on April 7, the police used excessive force against more than 20 reporters and photographers in Ahmedabad at the Gandhi Ashram. The journalists were covering two peace demonstrations that were disrupted by members of the youth section of the BJP. On April 8, an official communiqué stated that a commission of inquiry was being set up and would be chaired by a retired judge of the High Court and the Commission was to issue a report 3 weeks after the incident; however, at year's end, no report had been filed or made public. In May members of the BSF assaulted 17 journalists. In August, an editor and three employees of the weekly *Chattan* were beaten in their offices by members of the security forces. In June Alex Perry, the bureau chief for a magazine, was detained and questioned for several hours concerning alleged irregularities with his passport. His detention followed the publication of a June 19 article critical of the Prime Minister. On November 19, Farooq Javed Khan, photographer for the *Hindustan Times* and *Kashmir Images* was beaten by police officers as he walked home from his office in Srinagar. At year's end, the police had not investigated these incidents.

In September government employees beat several journalists in Assam, three of whom required hospitalization. At year's end, a departmental inquiry was conducted and the government suspended several state employees.

In some instances, allegations of violence against journalists were made against state governments. No action reportedly was taken against the town magistrate who used excessive force against journalist Parag Saikia in July 2000.

In Calcutta the Communist Party of India (Marxist) (CPI (M)) often threatened journalists; however, as the power of the party diminished, journalists criticized the Government more frequently.

Nonviolent pressure on journalists comes from official sources as well: Kumar Badal, journalist of the vernacular daily newspaper *Naharolgi Thoudang* was arrested in 2000 on charges of indulging in antinational activities. He was released after a court ruled that the allegation was baseless. Some newspapers received more than \$1.29 million (RS 60 million) annually in advertising revenue from the state government. The threat of losing this revenue contributed to self-censorship by smaller media outlets, which heavily relied on government advertising.

There were no developments in the investigation of the attack by BSF in 2001 that left 11 persons dead, 8 of them civilians, and 3 journalists hospitalized. There were no developments in the 2001 case of Aajir Asam.

During the year, the government of Tamil Nadu and the Press Council of India completed an investigation into the 2001 case of police charging 12 members of the press and injuring them during a DMK rally; however, the commission's report was not released to the public. On February 5, Suresh, a Sun Television reporter was granted bail. He was arrested on in June 2001.

The Government maintains a list of banned books that may not be imported or sold in the country; some—such as Salman Rushdie's "Satanic Verses"—because they contain material government censors have deemed inflammatory.

Intimidation by militant groups caused significant self-censorship by journalists. The local press continued to face pressure from militant groups attempting to influence coverage. For example, militants fired rockets at the All India Radio Station and the Doordashan complex in Srinagar in November. No one was injured in these incidents.

On April 14, unknown assailants killed Paritosh Pandey, a crime reporter of the *Jansatta Express* in Lucknow. Many observers believed that Pandey's death was in response to his reporting of criminal gangs. On April 15, dozens of journalists staged a demonstration to complain that police were slow to respond to news of Pandey's murder. During this demonstration, a security official hit a reporter with a rifle butt and caused serious injuries (see Section 2.b.). The police had not arrested anyone in connection with the killing by year's end.

On May 29, unknown assailants shot Zafar Iqbal, a reporter for the Kashmir Images in Srinagar. Local journalists believed Iqbal may have been targeted because the publication is known for supporting the Government. The police had not arrested anyone in connection with the killing by year's end.

During the year, as in 2001, 2000, and 1999, Kashmiri militant groups threatened journalists and editors and even imposed temporary bans on some publications that were critical of their activities.

The trial continued in the 2000 killing of V. Selvaraj, a journalist with the biweekly *Nakkeeran*.

Television no longer was a government monopoly, but this was due more to technological changes than to government policy. Private satellite television was distributed widely by cable or satellite dish in throughout the country. These channels provided substantial competition for DDTV, the national broadcaster, in both presentation and credibility. DDTV frequently was accused of manipulating the news for the benefit of the Government; however, cable operators were not free from criticism. In some parts of the country, to varying degrees, satellite channel owners used their medium to promote the platforms of the political parties that they supported.

In March police sealed the offices of a local news television channel, and four media persons were arrested in Vadodara. The police claimed that the television channels were "fueling divisive feelings among the populace, and causing communal disharmony under the provisions of the Penal Code." The four media persons were released on bail, and the police reopened the offices later that evening. The owner of the television channel said that the authorities seized his offices in retaliation for his expose of police inaction during the riots in Gujarat.

Government measures to control objectionable content on satellite channel – specifically, tobacco and alcohol advertisements – still were in effect, which held cable distributors liable under civil law. The (often foreign) satellite broadcasters, rather than the domestic cable operators, fall within the scope of the regulation.

AM radio broadcasting remained a government monopoly. Private FM radio station ownership was legalized during 2000, but licenses only authorized entertainment and educational content. Licenses did not permit independent news broadcasting.

A government censorship board reviewed films before licensing them for distribution. The board censored material it deemed offensive to public morals or communal sentiment. This led to self-censorship among producers, who often avoided subjects perceived as critical of the Government. Producers of video newsmagazines that appeared on national television were required to submit their programs to DDTV, which occasionally censored stories that portrayed the Government in an unfavorable light.

The Government limited access to the Internet. The Information Technology Act provides for censoring information on the Internet on public morality grounds, and it considers "unauthorized access to electronic information" a crime. According to Reporters Without Borders, this law allows police officers to search the homes or offices of Internet users, at any time and without a warrant. On July 4, Kumar Badal, a reporter with the on line newspaper *Tehelka.com*, was arrested and charged with asking poachers to kill wild animals in a national park. In June the CBI searched the head office of *Tehelka.com* and the home of a *Tehelka.com* employee hours before the site's editor in chief was to give testimony about a corruption scandal that led to the resignations of Defense Minister and the president of the Hindu nationalist party. Anyone running an "anti-Indian" site risked up to 5 years in prison.

The Government did not restrict academic freedom, and students and faculty espoused a wide range of views. In addition to approximately 16 national universities and 259 state universities, states were empowered to accredit locally run private institutions.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of peaceful assembly, and the Government generally respected this right in practice. The authorities sometimes required permits and notification prior to holding parades or demonstrations, but local governments ordinarily respected the right to protest peacefully, except in Jammu and Kashmir, where separatist parties routinely were denied permits for public gatherings. During periods of civil tension, the authorities may ban public assemblies or impose a curfew under the Criminal Procedure Code.

Parts of Srinagar and other parts of Jammu and Kashmir occasionally came under curfew, but more often were affected by strikes called by separatists. From November until year's end, the country's independent election authorities banned all religious processions in Gujarat. The ruling came in response to a demonstration planned by the hardline Hindu group, VHP. The commission said that the VHP march should not be allowed to go ahead because there was a likelihood that "provocative and intemperate" speeches being made during the procession. In response, the Gujarat VHP attempted to organize a procession from Ahmedabad to Godhra in contravention of the Election Commission guidelines. The Gujarat police prevented the procession and arrested the leaders; however, later that day they were released.

In January police fired upon a demonstration in Bihar, and 2 students were killed and 10 were injured. The students were protesting a hike in university fees; however, the Government alleged that police fired only after stones were hurled at them. For

example, in May members of the BSF fired on demonstrators in Safakadal to protest the BSF beating of a Muslim clergyman who used a loudspeaker in a mosque. The shooting killed one person and injured numerous others. In June one laborer was killed, and five were injured when police opened fire on protesters at a tea plantation in West Bengal. Police claimed that the laborers attacked representatives from a property company who tried to take back the land. On August 29, several persons, including the CPI state council members were injured when police charged CPI activists who were demonstrating against the Government's increase in power rates. On September 20, several persons were injured when police fired on a group of persons distributing pamphlets outside Srinagar's largest mosque.

There were no reports of any action taken against the responsible members of the police who fired into a crowd of villagers in 2001. The army apologized for the incident and promised an official inquiry; however, no security force members have been charged in the incident. No action reportedly was taken against members of the police who used excessive force to disperse demonstrations on the following dates of 2001: August 6; June 18; August 12; and the November riot in Guwahati, Assam. Reportedly no action was taken against the members of the SOG who used excessive force to disperse demonstrations in the April 2000 killing of eight persons in Jammu and Kashmir.

The Constitution provides for the right to form associations, and the Government generally respected this right in practice.

A requirement exists that NGOs secure the prior approval of the Ministry of Home Affairs before organizing international conferences. Human rights groups contended that the requirement provides the Government with substantial political control over the work of NGOs and their freedom of assembly and association. Some NGOs alleged that some of their members were denied visas to enter the country.

c. Freedom of Religion

The Constitution provides for secular government and the protection of religious freedom, and the central Government generally respected these provisions in practice; however, it sometimes did not act effectively to counter societal attacks against religious minorities and attempts by state and local governments to limit religious freedom. This failure resulted in part from the legal constraints inherent in the country's federal structure and in part from the law enforcement and justice systems, which at times were ineffective. The ineffective investigation and prosecution of attacks on religious minorities was interpreted by some extremist elements as a signal that such violence likely would go unpunished. Tension between Muslims and Hindus, and to an increasing extent between Hindus and Christians, continued to pose a challenge to the secular foundation of the State.

Although the law provides for religious freedom, enforcement of the law was poor, particularly at the state and local levels, where the failure to deal adequately with intragroup and intergroup conflict and with local disturbances abridged the right to religious freedom. There was significant Hindu-Muslim violence during the year. In many cases, the Government response was inadequate, consisting largely of statements criticizing the violence against Muslims, with few efforts to hold accountable those persons responsible or to prevent such incidents from occurring (see Section 5). For example, in September Gujarat Chief Minister Narendra Modi allegedly made disrespectful remarks about Muslims in an election rally speech. In the speech, Modi allegedly blamed Muslims living in refugee camps for the state's population boom, although he denied insulting Muslims. Throughout the year, the Government generally described the violence and attacks as a series of isolated local events.

The leading party in the government coalition is the BJP, a Hindu nationalist political party with links to Hindu extremist groups that were implicated in violent acts against Christians and Muslims. The BJP also leads state governments in Gujarat, Himachal Pradesh, and Goa. Many BJP leaders and party workers were members of the Rashtriya Swayamsewak Sangh (RSS) and share some of its ideology. The RSS espouses a return to Hindu values and cultural norms. However, the BJP is an independent political party, and the degree of RSS influence over its policy making was not clear. Members of the BJP, the RSS, and other affiliated organizations were implicated in incidents of violence and discrimination against Christians and Muslims. The BJP and RSS officially express respect and tolerance for other religions; however, the RSS in particular opposes conversions from Hinduism and believes that all citizens should adhere to Hindu cultural values. The BJP officially agrees that the caste system should be eliminated, but many of its members are ambivalent about this. The BJP's traditional cultural agenda includes calls for construction of a new Hindu temple to replace an ancient Hindu temple that was believed to have stood on the site of a mosque in Ayodhya that a Hindu mob destroyed in 1992; for the repeal of Article 370 of the Constitution, which grants special rights to the state of Jammu and Kashmir, the country's only Muslim majority state; and for the enactment of a uniform civil code that would apply to members of all religions.

No registration is required for religions. Legally mandated benefits are assigned to certain groups, including some groups defined by their religion. For example, some states reserve jobs and educational enrollment slots for Muslims, who do not benefit from reservations designed to help lower-caste Hindus.

In May 2001, the Government banned Deendar Anjuman, a Muslim group whose members were arrested in connection with a series of church bombings in Karnataka in 2000. The Government banned the group for "fomenting communal tension" and actions "prejudicial to India's security." During the year, the Government arrested, and tried 20 members of Deendar Anjuman implicated in the Karnataka church bombing.

The Religious Institutions (Prevention of Misuse) Act makes it a criminal offense to use any religious site for political purposes or to use temples for harboring persons accused or convicted of crimes. While specifically designed to deal with Sikh places of worship in Punjab, the law applies to all religious sites. The Religious Buildings and Places Act requires a state government-

endorsed permit before construction of any religious building may commence in the state. The Act's supporters claimed that its aim was to curb the use of Muslim institutions by Islamic fundamentalist terrorist groups, but the measure became a controversial political issue among religious groups in the northern part of the country. In West Bengal, legislation in force requires any person desiring to construct a place of worship to obtain permission from the district magistrate.

On March 13, the Supreme Court ruled that Hindu activists could not perform a March 15 religious ceremony on the land surrounding the site of the demolished mosque in Ayodhya. Thousands of police and paramilitary troops were deployed in and around Ayodhya, and most Hindu militants were stopped from entering the town.

On October 31, the controversial Prohibition of Forcible Conversion of Religion Bill that bans "forced" religious conversions, passed in the State of Tamil Nadu. Human rights advocates believed that the law made it more difficult for poor persons, mistreated minorities, and others ostracized under the caste system, to convert from Hinduism to another religion.

There is no national law that bars proselytizing by Christian citizens. Foreign missionaries generally may renew their visas, but the Government refused to admit new resident foreign missionaries. New arrivals entered as tourists on short-term visas. During the year, state officials continued to refuse to issue permits for foreign Christian missionaries, as well as other persons, to enter some northeastern states, on the grounds of political instability in the region. Missionaries and religious organizations must comply with the Foreign Contribution (Regulation) Act (FCRA), which restricts funding from abroad and, therefore, the ability of certain groups to finance their activities. The Government was empowered to ban a religious organization if it has violated the FCRA, has provoked intercommunity friction, or has been involved in terrorism or sedition.

The legal system accommodated minority religions' personal status laws; there were different personal laws for different religious communities. Religion-specific laws pertain in matters of marriage, divorce, adoption, and inheritance. For example, Muslim personal status law governed many noncriminal matters involving Muslims, including family law, inheritance, and divorce. The personal status laws of the religious communities sometimes discriminated against women (see Section 5).

Tensions between Muslims and Hindus, and between Hindus and Christians, continued during the year. Attacks on religious minorities occurred in several states, which brought into question the Government's ability to prevent sectarian and religious violence. The worst religious violence during the year was directed against Muslims by Hindus in Gujarat. It was alleged widely that the police and state government in Gujarat did little to stop the violence promptly and at times even encouraged or assisted the Hindu fundamentalists in perpetrating violent acts (see Section 5).

In February after an attack by Muslims on a train in Godhra that resulted in the deaths of 58 Hindus, an estimated 2,000 Muslims were killed in rioting in Gujarat. Beginning on February 28, Hindus attacked and looted Muslim homes, business, and places of worship. The rioting continued from March to mid-May. NGOs reported that police were implicated directly in many of the attacks against Muslims in Gujarat, and in some cases, NGOs contended, police officials encouraged the mob. The Gujarat state government and the police were criticized for failing to stop the violence and in some cases for participating in or encouraging it. Muslim women and girls were raped, and an estimated 850 to 2,000 Muslims were killed. Human rights activists reported that the Gujarat police received specific instructions not to take action to prevent a possible violent reaction to the February 27 attack by Muslims on a train in Godhra carrying Hindus. These observers asserted that Gujarat Chief Minister Narendra Modi personally told Ahmedabad police officials on February 27 to allow Hindus 2 days to react "peacefully" to the Godhra incident. The police reportedly told Muslim victims, "we don't have orders to help you." It was reported that assailants frequently chanted "the police are with us," according to eyewitness accounts. HRW reported that much of the violence was planned well in advance of the Godhra attack and was carried out with state approval and orchestration.

According to Human Rights Watch (HRW), the worst violence occurred in the city of Ahmedabad. HRW reported that, "Between February 28 and March 2 the attackers descended with militia-like precision on Ahmedabad by the thousands, arriving in trucks, clad in saffron scarves, and khaki shorts, the signature uniform of Hindu nationalist groups. Chanting slogans of incitement to kill, they came armed with swords, trishuls, sophisticated explosives and gas cylinders. They were guided by computer printouts listing the addresses of Muslim families and their properties ...and embarked on a murderous rampage confident that the police was with them. In many cases, the police led the charge, using gunfire to kill Muslims who got in the mob's way." In addition, there were reports that "most bodies that had arrived...were burned and butchered beyond recognition. Many were missing body parts - arms, legs, and even heads. The elderly and the handicapped were not spared. In some cases, pregnant women had their bellies cut open and their fetuses pulled out and hacked or burned before the women were killed."

On March 24, a report that the government of Gujarat transferred police officials who allegedly had taken action against Hindu rioters drew further media and NHRC criticism of perceived government partisanship. In its final report on Gujarat, released on June 1, the NHRC held the Gujarat government responsible for the riots and accused it of "a complicity that was tacit if not explicit." The report concluded that "there is no doubt, in the opinion of this Commission, that there was a comprehensive failure on the part of the state government to control the persistent violation of rights of life, liberty, equality, and dignity of the people of the state." The report recommended a CBI inquiry into the communal riots, which the state government subsequently refused to allow.

The destruction caused the forcible displacement of more than 100,000 Muslims into makeshift camps throughout Gujarat. The Government disbanded the camps by mid-June.

Some Christian groups also claimed that BJP officials at state and local levels became increasingly uncooperative. The

Government also has been criticized for not attempting to restrain the country's radical Hindu groups.

Christian leaders noted a slight decrease in the incidents of violence against their community and also a change in the type of incidents; however, attacks against Christians continued. On February 17, a church in Karnataka was attacked during morning mass. According to HRW, 70 men, draped in the Hindu nationalist signature saffron flags, descended on the church and hurled bricks and stones at the congregation.

On April 29, a church in Orissa was attacked and set on fire with 20 worshippers inside. No injuries were reported. A spokesman for the Catholic Bishops' Conference of India said that fewer physical attacks occurred against Christians; however, Hindu nationalists began an ideological campaign to limit access to Christian institutions and discourage or, in some cases, prohibit conversions to Christianity. For example, on July 18, Sister Brishi Ekka was sentenced to 6 months in jail by a court in Chhattisgarh for not reporting the 1996 conversion of 95 families to Christianity. This was the first conviction under the state's anti-conversion law, which has been in force since the 1970s. Sister Ekka appealed the decision in the Chhattisgarh High Court and later was released on bail. The Government found that 80 percent of attacks on minorities were motivated by local incidents, economic arguments, or intradenominational feuds. In August a new cable television station, promoting Catholic values, was launched in Kerala; however, several cable television station operators in Kerala and the neighboring states reportedly refused to make the stations' programming available to viewers. In November 2001, newspapers reported that Muslim terrorist groups, including Al-Qaida, targeted the Missionaries of Charity in Calcutta. Press reports stated that extremist groups targeted the nuns because they received economic aid from the United States to convert Muslims to Christianity. The fear of conversion of Hindus and Muslims by Christians was highlighted in an August 15 statement by Prime Minister Vajpayee. He stated "There is a conversion motive behind the welfare activities being carried out by some Christian missionaries in the country's backward areas, and it is not proper, although conversion is permissible under the law."

In May 2001, a Christian priest, Father Jaideep, was attacked in Jatni town, Orissa. Local citizens, who were enraged by the priest's distribution of pamphlets to propagate Christianity in a Hindu-dominated area, allegedly participated in the attack.

Citizens often referred to schools, hospitals, and other institutions as "missionary" even when they were owned and run entirely by indigenous Christian citizens. By using the adjective "missionary," the RSS tapped into a longstanding fear of foreign religious domination.

By year's end, the trial continued in Orissa of Dara Singh, a member of the Hindu extremist Bajrang Dal, who was arrested in 2000 for the Staines' murders.

In Christian majority areas, Christians sometimes were the oppressors. In Tripura there were several cases of harassment of non-Christians by Christian members of the National Liberation Front of Tripura (NLFT), a militant tribal group with an evangelical bent. For example, NLFT tribal insurgents have prohibited Hindu and Muslim festivals in areas that they control, cautioned women not to wear traditional Hindu tribal attire, and prohibited indigenous forms of worship. In Assam, the issue of Bangladeshi migrants (who generally were Muslim) has become very sensitive among the Assamese (predominantly Hindu) population, which considers itself increasingly to be outnumbered.

Hindus have been victims of violence. For example, on September 24, an attack on the Swaminarayan Hindu Temple in Gujarat left 40 persons dead before security forces stormed the temple. The Government responded swiftly by deploying approximately 3,000 army personnel to dispel a strike and protest march called by the VHP to protest the attack. Critics of the Government noted that had the Government acted quickly following the Gujarat violence, many deaths could have been prevented.

Throughout the year, pan-Islamic militants continued to try to drive all non-Muslims out of Kashmir. In August militants unlawfully entered a house in Jammu and killed four members of a Hindu family. There was no reported progress regarding any investigation of the 2001 killing of six Sikhs in Srinagar. These mass killings in Kashmir, targeted against the Sikh community, increased fears that the remainder of Kashmir's minorities may try or be forced to leave. There was an exodus of many from the Sikh community, particularly the young, during 2001.

There was no reported progress regarding any investigation of the March 2000 killings of 35 Sikh men in the village of Chatti Singhpora, near Anantnag in south Kashmir.

The degree to which the BJP's nationalist Hindu agenda was felt throughout the country with respect to religious minorities varied depending on the region. In some states, governments made efforts to reaffirm their commitment to secularism. In others, mainly in the south, religious groups alleged that since the BJP's rise to power in the national Government, some government bureaucrats began to enforce laws selectively to the detriment of religious minorities. For example, this revivalist campaign included the "Hinduization" of education, including the revision of history books to include hate propaganda against Islamic and Christian communities. The situation in the east varied. For example, the Orissa Freedom of Religion Act contains a provision requiring a monthly government report on the number of conversions and requiring a police inquiry into conversions, but this provision was not enforced.

For a more detailed discussion see the 2002 International Religious Freedom Report.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution grants citizens the freedom of movement, and the Government generally respected this in practice; citizens enjoyed freedom of movement within the country except in certain border areas where, for security reasons, special permits were required.

Vehicle checkpoints, at which BSF routinely searched and questioned occupants, were a common feature throughout most of Jammu and Kashmir. It also was common for police to block entry and exit points in preparation for gathering young males for police lineups. These searches tended to focus on troubled areas, as opposed to the mass searches that were common in the past. According to a credible source, such search operations seldom yielded any results. There were frequent curfews in areas of conflict, including in New Delhi in recent years.

Under the Passports Act, the Government may deny a passport to any applicant who "may or is likely to engage outside India in activities prejudicial to the sovereignty and integrity of India." The Government used this provision to prohibit the foreign travel of some government critics, especially those advocating Sikh independence and members of the violent separatist movement in Jammu and Kashmir. For example, in November the Government denied Yasin Malik, a Kashmiri separatist, a passport to travel outside the country.

During the year, there were reports that Bodo-Santhal ethnic clashes continued. In April NDFB militants killed five Adivasis in Hatiphuli Relief Camp in Kokrajhar. In July suspected NDFB militants killed nine Adivasis in a village relief camp in the same district. In December four Santhal woodcutters were killed by Bodo militants. More than 87,000 persons lived under poor conditions in relief camps in Assam's Kokrajhar, Gosaigaon, and adjoining districts as a result of the ongoing violence between Bodos and Santhals.

The incursions of Pakistani-backed armed forces into territory on the Indian side of the LOC in Jammu and Kashmir and the Indian military campaign to repel the intrusion continued during the year and allegedly forced many residents of Jammu and Kashmir from their homes, a number of whom took refuge on the Pakistani side of the LOC. Many homes were destroyed. In 2000 Jammu and Kashmir home minister Mustaq Ahmad Lone told the state assembly that 43,510 persons remained displaced since 1999 (see Sections 1.a., 1.c., and 1.g.).

Since 1990 more than 235,000 Bangladeshis have been deported, many from Maharashtra and West Bengal. The occasional deportation of Bangladeshis judged to have entered the country illegally continued during the year, but there was no repetition of the systematic roundup of Bangladeshis for mass deportation that had been conducted by the Maharashtra government in the past. The Government estimated that there were 10 million Bangladeshis living illegally in the country. By year's end, the Illegal Migrants Determination by Tribunal law (IMDT), which largely was aimed at illegal Bangladeshi immigrants, had not been implemented. The central Government acknowledged that the law was aimed at Bangladeshis, but claimed that it was unable to repeal the act due to a lack of consensus in Parliament.

The law does not provide for the granting of asylum or refugee status in accordance with the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government has not formulated a policy regarding refugees, asylees, or first asylum. The office of the U.N. High Commissioner for Refugees (UNHCR) had no formal status, but the Government permitted the UNHCR to assist certain groups of refugees (notably Afghans, Iranians, Somalis, Burmese, and Sudanese). The U.N. High Commissioner for Refugees visited the country in May.

The Government provided first asylum to some refugees, most notably in recent years to Tibetan and Sri Lankan Tamil refugees. However, this policy was applied inconsistently. For example, the insistence of some border authorities on the presentation of passport and visas by those claiming refugee status occasionally resulted in individuals or groups being refused admittance. This occurred in recent years in cases involving Chin and Rakhine refugees from Burma and Afghans who entered the country through Pakistan. The UNHCR reported that the country continued to host a large urban refugee population, roughly 90 percent of whom were from Afghanistan. Refugees were not required to make claims in other countries. In April the UNHCR announced that it would help Burmese refugees be self-sufficient and end their monthly subsistence allowances. However, the UNHCR continued to assist extremely needy refugees including women and children.

The Government recognized certain groups, including Chakmas from Bangladesh, Tamils from Sri Lanka, and Tibetans as refugees and provided them with assistance in refugee camps or in resettlement areas. According to UNHCR and government statistics, there were approximately 110,000 Tibetans, approximately 64,990 Sri Lankan Tamils in 131 camps, and perhaps as many as 80,000 Sri Lankan Tamils outside of the camps living in the country at year's end. According to the Tamil Nadu government, there were 60,000 refugees residing in 108 refugee camps and as many as 80,000 residing outside the camps. The refugees in the camps were permitted to work, and the state and central governments paid to educate refugee children and provided limited welfare benefits. Some 80,000 Chakma permanent residents remained in Arunachal Pradesh and Mizoram; the Supreme Court has upheld their right to citizenship. However, the Supreme Court's order to extend citizenship to this group still was not enforced by year's end. The UNHCR reported that 11,642 Afghans, 857 Burmese, and approximately 350 others were receiving assistance from the UNHCR in the country as of August 2001. The Government also assisted an unknown number of persons from Tibet and Sri Lanka. Although the Government formally did not recognize these persons as refugees, it did not deport them. Instead, they received renewable residence permits, or their status was ignored. Increasingly during the year, some of these groups—Afghans, Iraqis, and Iranians in particular—were not granted renewal of their residence permits by the authorities on the grounds that they were not in possession of valid national passports. Due to financial and other reasons, many refugees were unable or unwilling to obtain or renew their national passports and therefore were unable to regularize their status in the country.

The Tamil Nadu government provided educational facilities to Sri Lankan Tamil refugee children, and the central Government provided some assistance and channeled assistance from NGO and church groups. The central Government generally denied NGOs and the UNHCR direct access to the camps. NGOs reported refugee complaints about deteriorated housing, poor sanitation, delayed assistance payments, and inadequate medical care in the Tamil refugee camps. The Government used some of these "special camps" to hold suspected members of the LTTE terrorist organization. Human rights groups alleged that inmates of the special camps sometimes were subjected to physical abuse and that their confinement to the camps amounted to imprisonment without trial. They alleged that several of those acquitted by the Supreme Court in 1999 of involvement in the assassination of former Prime Minister Rajiv Gandhi remained confined in these special camps. During the year, the Tamil Nadu government initiated a review of the inmates of the special camps to determine whether any could be released. Some of the inmates were allowed to return to Sri Lanka voluntarily; however, approximately 170 persons remained in the special camps.

Santhals were non-recognized refugees in Assam, and human rights groups estimated that 200,000 lived in relief camps. The Santhals were being sheltered in 100 camps in Assam; conditions in such camps were extremely poor and the Assam government claimed it did not have the resources to improve the conditions of the relief camps.

Ethnic Chins were among the nonrecognized refugees in the northeastern states, particularly Mizoram. Student-led demonstrations protested Chins and Chakma's presence in Mizoram. During the year, tensions between security forces and Chin National Force (CNF) insurgents operating in Burma allegedly resulted in the detention, interrogation, and expulsion of some persons associated with the CNF to Burma, where they credibly feared persecution. In September 2001, there were news reports that thousands of ethnic Chins were asked to leave Mizoram. The Mizoram Chief Minister stated that he wanted the border with Burma to be "fenced to check further infiltration of immigrants into the state." Human rights monitors alleged that approximately 1,000 Chin refugees were arrested in Mizoram, and some 200 had been repatriated forcibly to Burma between July and September 2000. NGOs estimated that 10,000 persons were expelled to Burma, where "the deportees were jailed pending hearings to be scheduled before military tribunals." An estimated 40,000 to 50,000 Chins lived and worked illegally in Mizoram.

Mizoram human rights groups estimated that some 31,000 Reangs, a tribal group from Mizoram that were displaced due to a sectarian conflict, were being sheltered in 6 camps in North Tripura. Conditions in such camps were poor, and the Tripura government asked the central Government to allot funds for their care. Reang leaders in the camps pressed for reserved jobs, education benefits, and a comprehensive rehabilitation package for refugees in the relief camps. The Mizoram government rejected these demands and maintained that only 16,000 of the refugees had a valid claim to reside in the state.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. The country has a democratic, parliamentary system of government with representatives elected in multiparty elections. A Parliament sits for 5 years unless dissolved earlier for new elections, except under constitutionally defined emergency situations. State governments were elected at regular intervals except in states under President's Rule.

On the advice of the Prime Minister, the President may proclaim a state of emergency in any part of the national territory in the event of war, external aggression, or armed rebellion. Similarly, President's Rule may be declared in the event of a collapse of a state's constitutional machinery. The Supreme Court has upheld the Government's authority to suspend fundamental rights during an emergency.

During the year, State Assembly elections were conducted in Uttar Pradesh, Punjab, Uttaranchal, Manipur, Goa, and Gujarat. In Gujarat international observers stated that the elections took place in a somewhat free and transparent manner; however, there were reports that persons had been left off the electoral register.

The elections in Jammu and Kashmir, held between September 16 and October 8, were to elect members to a new state assembly to form a new government. International observers stated that the elections were conducted in a reasonably free and transparent manner; however, some NGOs alleged that there were some flaws in the election, including that all major separatist groups boycotted the elections and there was an all-pervading fear of attacks by militants. Some 800 persons were killed in election-related violence in state assembly polling in Jammu and Kashmir (see Section 1.a.), and there were some allegations of voter fraud. Between August 2, when elections were announced, and September 24, when the second phase of elections came to an end, over 500 persons were killed. On October 1, as polls opened, three gunmen hurled grenade and rocket attacks at polling stations throughout the district of Anantnag. On September 24, militants abducted and beheaded National Conference leader Abdul Rahim Sofi in North Kashmir. Despite these fears and election-related violence, according to the Election Commission more than 44 percent of the citizens voted.

There were 70 women in the 783 seat legislature. There were 6 women in the Cabinet. A large proportion of women participated in voting throughout the country (with turnout rates slightly lower than those of men), and numerous women were represented in all major parties in the national and state legislatures. The passage of the "Panchayati Raj" constitutional amendments reserved 30 percent of seats in elected village councils (Panchayats) for women, which brought more than 1 million women into political life at the grassroots level.

The Constitution reserves seats in Parliament and state legislatures for "scheduled tribes" and "scheduled castes" in proportion to their population (see Section 5). Indigenous people actively participated in national and local politics, but their impact depended on their numerical strength. In the northeastern states, indigenous people were a large proportion of the population and consequently exercised a dominant influence in the political process. In contrast, in Maharashtra and Gujarat, tribal people were a small minority and were unsuccessful in blocking projects that they opposed.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Independent human rights organizations operated throughout most of the country, investigating abuses and publishing their findings; however, in some states and in a few circumstances, human rights groups faced restrictions. Human rights monitors in Jammu and Kashmir were unable to move around the state to document human rights violations due to fear of retribution by security forces and counterinsurgents. Several individuals closely involved in the documentation of violations in Jammu and Kashmir, including lawyers and journalists, were attacked and in some cases killed. International human rights monitors had difficulty in obtaining visas to visit the country for investigation purposes.

Unlike in previous years, the Home Minister did not enforce a dormant executive order requiring visitors for some conferences from certain countries to register beforehand.

The Government appointed a National Human Rights Commission in 1993 with powers to investigate and recommend policy changes, punishment, and compensation in cases of police abuse. In addition, the NHRC was directed to contribute to the establishment, growth, and functioning of human rights NGOs. The Government appointed the members and financed the operations of the NHRC. The NHRC was seriously understaffed, and it is prohibited by statute from directly investigating allegations of abuse involving army and paramilitary forces. The Commission acted independently of the Government, often voicing strong criticism of government institutions and actions. However, the NHRC faced numerous institutional and legal weaknesses, which human rights groups said hampered its effectiveness.

From April 2000 to March 2001, the last year for which figures were available, the NHRC received 71,685 new complaints of human rights violations, an increase of more than 41 percent compared with 2000. More than 50 percent of the complaints were from Uttar Pradesh. The increased number of complaints was believed to be the result of the Commission's increased visibility. Of the 53,711 cases considered during 2000, 32,172 were dismissed; 10,718 were transmitted to other governmental authorities for disposition; 3,395 were concluded, and 7,426 remained pending.

The NHRC also has influenced the legislative process, particularly by issuing recommendations on women's issues, persons with disabilities, and children's rights. The NHRC encouraged the establishment of human rights cells in police headquarters in some states; however, this policy was not implemented in any meaningful way. In January the NHRC opened a separate Women's Human Rights Cell in its New Delhi office. This office was able to notify state governments of human rights violations and investigate some complaints, but it cannot impose punitive measures or implement corrective action. In addition, in October the NHRC created a computerized complaint database on its website, where information about each case was available. The NHRC also was involved in programs to eliminate child labor (see Section 6.c.).

HRW reported the June killing of human rights defender Navleen Kumar outside of Mumbai. On June 30, four persons were arrested in connection with the killing. On July 8, P.B. D'Sa, vice president of the Karnataka state branch of the People's Union for Civil Liberties, was stabbed and sustained serious injuries. According to HRW, police personnel reportedly were involved in the attack. AI reported the November 2000 killing of human rights defender T. Purushotham in Hyderabad, Andhra Pradesh; however, by year's end, there were no investigations into Purushotham's death. There was no definitive resolution in the case of abducted and killed Kashmir human rights monitor Jalil Andrabi in 1996. Human rights workers alleged that the state attempted to subvert the judicial process by withholding evidence (see Sections 1.a. and 1.b.).

Several Christian-affiliated (in many cases, nonevangelical) international relief agencies stated that during the year their work in delivering services to the poor became considerably more difficult due to threats, increased bureaucratic obstacles, and, in some cases, physical attacks on their field workers by Hindu extremists (see Sections 2.c. and 5). The prison visits program in Jammu and Kashmir by the ICRC continued during the year (see Section 1.c.). ICRC representatives also continued training police and BSF personnel in international humanitarian law. In 2001 the authorities continued to deny HRW and AI permission to visit Jammu and Kashmir. In 2001 the Government denied HRW any access to the country and only allowed AI limited access. The West Bengal government, which was governed by the communist party, and its Chief Minister, Buddhadeb Bhattacharya, called AI "anticommunist" and refused to acknowledge that its report on West Bengal was authentic. The Government also continued to deny the U.N. Special Rapporteur on Extrajudicial Killings permission to visit the country. Unlike in previous years, the Home Ministry did not invite the U.N. Special Rapporteurs on Torture and on Extrajudicial Killings or the Special Rapporteur on Extrajudicial killings. Police and security forces arrested and harassed human rights monitors. The Government continued to refuse repeated UNHCR requests for access to the Sri Lankan Tamil refugee camps in Tamil Nadu (see Section 2.d.).

The Human Rights Act requests each state to establish a state human rights commission, but not all states have done so. Commissions exist in 12 states: Assam, Chhattisgarh, Manipur, Himachal Pradesh, Madhya Pradesh, Maharashtra, West Bengal, Tamil Nadu, Punjab, Jammu and Kashmir, Kerala, and Rajasthan. Bihar, Goa, and Andhra Pradesh have yet to appoint state human rights commissions. Gujarat has not established officially a state commission, but in 2000 a commission of inquiry

was created to report on the custodial death of Colonel Pratap Save, a retired military officer. This commission had yet to report its conclusions by year's end. Uttar Pradesh, the state with the largest number of human rights complaints to the NHRC, stated its intention to set up a state human rights commission but had not yet done so. The state human rights commission established in Jammu and Kashmir by an act of the state legislature had no power to investigate independently alleged human rights violations committed by security force members.

The NHRC and the National Minorities Commission took unilateral action not prompted by a specific complaint or legal demand and warned the state and central government in Gujarat to take corrective action in regard to the February and March violence. Subsequently, the central Government created a special compensation package for the victims of the violence in Gujarat as a direct result of this warning.

The Madhya Pradesh state human rights commission was active in pursuing complaints. From April 2001 to March, the commission received 13,308 complaints, more than the number from the previous year. The commission lamented that at the district level, the Government was extremely slow in responding to complaints forwarded to it. Partly as a result, 5,191 complaints were pending as of March 31.

The Maharashtra state human rights commission came into existence in March 2001, and it received 1,440 complaints in 2001, of which 740 were pending at year's end.

The Chhattisgarh state has not created a human rights commission.

Tamil Nadu's Human Rights Commission had five members and was presided over by a retired High Court Chief Justice. It worked on caste clashes and deaths resulting from illicit liquor sales, but its lack of authority to investigate effectively barred it from considering major incidents. The three-member Kerala Human Rights Commission was understaffed and relatively inactive, although it probed prison conditions. In addition to these state human rights commissions, special courts to hear human rights cases were established in Tamil Nadu, Uttar Pradesh, and Andhra Pradesh. However, the courts in Uttar Pradesh did not function despite a 1999 court order that they be reactivated.

Punjab's Human Rights Commission (PHRC) had four members and was presided over by a Chairperson. The selection for a 5-year term was made by the State Governor acting on the advice of a committee chaired by the Chief Minister. Several local human rights organizations expressed concern that the PHRC members did not appear to have the record of involvement in the protection and promotion of human rights that was required under the Protection of Human Rights Act (PHRA). In 2001 the Commission received 6,300 complaints of human rights violations. According to AI, the Commission was understaffed and seriously limited by the PHRA, which limited its powers to investigate individual cases of human rights violations. The People's Commission, a separate body to investigate disappearances, was established by retired Supreme Court Justice Kuldip Singh to highlight the fate of more than 2,000 persons who "disappeared" during the period of political unrest in Punjab (see Section 1.b.); it continued to receive little cooperation from state government authorities.

Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social status

The traditional caste system as well as differences of ethnicity, religion, and language deeply divide society. Despite laws designed to prevent discrimination, other legislation as well as social and cultural practices had a profound discriminatory impact, and discrimination against women, persons with disabilities, indigenous people, and national, racial, and ethnic minorities was a problem. According to the National Commission for Scheduled Castes and Scheduled Tribes, caste clashes were frequent in Uttar Pradesh, Bihar, and Tamil Nadu.

Women

Domestic violence was common and a serious problem. In a survey by the National Family Health Survey released during the year, 56 percent of the women said that domestic violence was justified. These sentiments, combined with ineffective prosecution, made progress against domestic violence difficult.

The issue of rape received increased political and social attention during the year. The press consistently reported that violence against women was increasing, although local women's organizations claimed that there simply had been increased reporting. Only 10 percent of rape cases were adjudicated fully by the courts, and police typically failed to arrest rapists, thus fostering a climate of impunity. Mass rapes often formed part of the tactics of intimidation used by upper caste gangs against lower castes, and gang rapes often were committed as a punishment for alleged adultery or as a means of coercion or revenge in rural property disputes. Numbers of reports of rape and the extent of prosecution varied from state to state. Madhya Pradesh had the highest rates of rape reported. In Assam 30 percent of rape cases involved girls below 18 years of age. Most of the victims were maidservants, some as young as 6 years old. On November 24, a medical student allegedly was gang raped in broad daylight in New Delhi. Police arrested a man and three suspected accomplices and charged them with rape, robbery, and criminal conspiracy.

Dowry disputes also were a serious problem. Although providing or taking dowry was illegal under the Dowry Prohibition Act, dowry was practiced widely. In the typical dowry dispute, a groom's family members harassed a new wife whom they believed had not provided a sufficient dowry. This harassment sometimes ended in the woman's death, which family members often tried

to portray as a suicide or accident. Although most dowry deaths involved lower and middle-class families, the phenomenon crossed both caste and religious lines.

Under the Penal Code, courts must presume that the husband or the wife's in-laws were responsible for every unnatural death of a woman in the first 7 years of marriage—provided that harassment was proven. In such cases, police procedures required that an officer of deputy superintendent rank or above conduct the investigation and that a team of two or more doctors perform the postmortem procedures. According to human rights monitors, in practice police did not follow these procedures consistently. In August the Supreme Court stressed the need to enforce effectively the Dowry Prohibition Act and to increase social awareness; however, there was no indication of improved enforcement or increased awareness.

Sati, the practice of burning widows on the funeral pyres of their husbands, was banned, but continued in a few cases despite the ban. On August 6, a 65-year-old woman died after performing sati on the funeral pyre of her husband in Madhya Pradesh. The state government ordered a magisterial inquiry into the incident, and subsequently 15 persons were arrested in connection with the incident. At year's end, the suspects faced charges of murder and conspiracy.

Several traditional practices that were harmful to women continued during the year. In April a tribal woman in Madhya Pradesh was forced to immerse herself in urine in a ritual intended to cleanse her of social ostracism; the police arrested four upper caste youths at year's end. In July a married woman in Indore was forced to engage in the practice of "agnipariksha," where her hands were placed in a fire to test her fidelity to her husband, at the request of her in-laws. At year's end, the National Commission had begun an investigation into the incident.

In remote villages, witchcraft accusations and punishments still occurred. In February a woman accused of being a witch was tortured and paraded naked in Rajasthan. Police arrested persons involved in the torture, and the District Collector ordered that the woman be paid \$105 (RS 5,040).

Societal violence against women was a serious problem. In February communal violence in Gujarat resulted in the deaths of many women. The violence began on February 27 after a Muslim mob in the town of Godhra attacked and set fire to two train cars carrying Hindu activists. Fifty-eight persons were killed, most of them women and children. In the subsequent riots, Muslim women and girls were raped, and an estimated 2,000 Muslim persons were killed (see Section 2.c.). In April a fact-finding team visited Gujarat to document the impact of communal riots on women. A subsequent report stated that Muslim women had been subjected to "unimaginable, inhuman, barbaric" sexual violence during the violence.

Dalit ("untouchable" caste) women have been stripped naked by mobs and paraded around in public to humiliate Dalits who offended other castes. For example, in July two Dalit women allegedly were gang raped and paraded nude in a Sudan village following a land dispute with local businessmen. Police arrested one person in the case. According to HRW, another Dalit woman was paraded naked in Kishanganj in November due to a land dispute.

In Kashmir the Lashkar-e-Jabbar militant group required all Muslim women to wear a burqa (a garment that totally covered the face and body) when in public or risk retribution. A significant number of women in the Kashmir Valley appeared to be complying with the order, frightened by the threat of being attacked with acid, beheaded, or killed. Lashkar-e-Jabbar also further ordered Hindus and Sikhs in the valley to wear identifying marks and told transport companies to reserve 50 percent of their seats for women in an effort to separate men and women in public spaces. At year's end, Al-Badr militants ordered all women police officers in Rajouri District to quit their jobs by January 15, 2003.

In February 2001, the Committee on the Elimination of Discrimination Against Women (CEDAW) of the UNCHR continued to recommend an extensive range of legal reform, additional resources, and affirmative government action to eliminate gender inequality.

Numerous laws exist to protect women's rights, including the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning) Prevention Act, and the Dowry Prohibition Act. However, the Government often was unable to enforce these laws, especially in rural areas in which traditions were deeply rooted. According to press reports, the rate of acquittal in dowry death cases was high, and because of court backlogs it took 6 to 7 years on average to rule on such cases.

Prostitution was common, with an estimated 2.3 million prostitutes in the country, some 575,000 of whom were children. Many indigenous tribal women were forced into sexual exploitation (see Section 6.c.). In recent years, prostitutes began to demand legal rights, licenses, and reemployment training, especially in Mumbai, New Delhi, and Calcutta. In January the Government signed the South Asian Association for Regional Cooperation (SAARC) Convention on Prevention and Combating Trafficking in Women and Children for Prostitution. The country is a significant source, transit point, and destination for many thousands of trafficked women (see Section 6.f.).

In 1999 according to NCRB statistics, there were 8,858 cases of sexual harassment. Sexual harassment of women in the workplace became a subject of NHRC consideration during the year. The NHRC instituted a committee to investigate harassment of women in the legal profession and asked universities to establish complaint committees immediately. The commission suggested the creation of a telephone hot line for complaints, initially starting in New Delhi, and gave advice to the media on reporting incidents of harassment against women. The National Commission for Women conducted 18 meetings with 568 representatives of public sector units, including public and private banks, educational institutions, corporations, universities,

and hotels, to examine further issues of compliance to address harassment against women.

The law prohibits discrimination in the workplace, but enforcement was inadequate. In both rural and urban areas, women were paid less than men for doing the same job. Women experienced economic discrimination in access to employment and credit, which acted as an impediment to women owning a business. The promotion of women to managerial positions within businesses often was slower than that of males. State governments supported micro credit programs for women that began to have an impact in many rural districts.

The Government continued to review legislation on marriage; it passed the Indian Divorce (Amendment) Act during 2001; the act widely had been criticized as biased against women. The Act placed limitations on interfaith marriages and specified penalties, such as 10 years' imprisonment, for clergymen who contravened its provisions. Under the Act, no marriage in which one party is a non-Christian may be celebrated in a church (see Section 2.c.).

Under many tribal land systems, notably in Bihar, tribal women do not have the right to own land. Other laws relating to the ownership of assets and land accorded women little control over land use, retention, or sale. However, several exceptions existed, such as in Ladakh and Meghalaya, where women had several husbands and controlled the family inheritance.

Children

The Government has not demonstrated a commitment to children's rights and welfare. The Government does not provide compulsory, free, and universal primary education, and only approximately 59 percent of children between the ages of 5 and 14 attend school. However, during the year, the lower house of Parliament passed a constitutional amendment giving all children ages 6 to 14 the right to free and compulsory education provided by the State. The amendment also placed an obligation on parents and guardians to provide educational opportunities to these children. The amendment awaited the President's endorsement at year's end. Of a primary school-age population of approximately 203 million, approximately 120 million children attended school. However, according to UNICEF, 76.2 percent of all children aged 11 to 13 years were attending school. No significant sectors or groups actively were excluded from education, but children of wealthier families were more likely to attend school than those of poor families. A significant gender gap existed in school attendance, particularly at the secondary level.

Child welfare organizations estimated that there were 500,000 street children nationwide living in abject poverty. A coalition of approximately 50 NGOs conducted a detailed survey in the Calcutta municipal area and identified 145,000 children who were not attending school, although not all of them were street children. The NGOs received UNICEF assistance in training teachers to conduct transitional education for a target group of 45,000 5- to 9-year-old children. The course work was intended to allow these children to enter mainstream schooling. The program aimed to set up an additional 600 schools for the remaining 29,000 children by year's end. Approximately 500 teachers had been trained by year's end.

Medical care is free to all citizens; however, availability and quality were problems, particularly in rural areas.

Child abuse is prohibited specifically by law. The Government stated that child abuse was not a significant problem; however, the Government has not released comprehensive statistics regarding child abuse.

Abuse of children in both public and private educational institutions was a problem. Schoolteachers often beat children. On December 27, police arrested and charged a teacher trainee who allegedly abused a four-year-old student in Mirambika School in New Delhi. In August 2001, schoolchildren in Barpeta district were asked to participate in a statewide peace march organized by the Assam government. Young children were taken in a long procession during the midday heat and were provided insecticide-ridden food as refreshments. Three children died and nearly 1,000 others became ill. The NHRC requested that the Assam Chief Secretary issue a detailed report on the incident and provide prompt medical treatment for the victims. At year's end, the investigation into the incident continued.

The Child Marriage Restraint (Amendment) Act prohibits child marriage, a traditional practice in the northern part of the country. The Act raised the age requirement for marriage for girls to 15 from 18 years, but the Government did not enforce the Act. According to one report, 50 percent of girls in Bihar, Rajasthan, Uttar Pradesh, and Madhya Pradesh were married by age 16. NCRB statistics showed that only 56 cases were registered under the Child Marriage Restraint (Amendment) Act during 1999. Each year in April, during the Hindu festival of Askhay Tiritiya, thousands of child marriages were performed in Madhya Pradesh, Chhattisgarh, and Rajasthan. Although state governments conducted awareness campaigns during the year, enforcement was weak and the practice was accepted in certain communities.

Runaway children, especially in larger cities, were at high risk for sexually transmitted diseases and HIV. They often worked 18- to 20-hour days, frequently in hazardous conditions (see Section 6.c.), and suffered sexual and mental abuse.

Trafficking in children for the purpose of forced prostitution was a problem (see Sections 6.c. and 6.f.).

The buying and selling of children for adoption occurred. In April 2001, police raided a child adoption racket in Andhra Pradesh. Nearly 200 children were rescued from several orphanages that were involved in the buying and selling of children for adoption. At year's end, police made some arrests and had charged some persons in connection with this incident.

The Union Ministry of Social Justice and Empowerment set up a 24-hour "child help line" phone-in service for children in distress in nine cities. Run by NGOs with government funding, the child help line assisted street children, orphans, destitute children, runaway children, and children suffering abuse and exploitation.

The traditional preference for male children continued. Although the law prohibits the use of amniocentesis and sonogram tests for sex determination, the Government did not enforce the law. The tests were misused widely for sex determination, and termination of a disproportionate number of pregnancies with female fetuses occurred. In the 12 years since the State of Maharashtra passed a law banning the use of such tests for sex determination, the state government filed charges against only one doctor, who was acquitted. Human rights groups estimated that at least 10,000 cases of female infanticide occurred yearly, primarily in poor rural areas. Parts of Tamil Nadu (Dharmapuri, Salem, and Madurai districts) still had high rates of female infanticide. In addition, parents often gave priority in health care and nutrition to male infants. Women's rights groups pointed out that the burden of providing girls with an adequate dowry was one factor that made daughters less desirable.

Persons with Disabilities

Although the Persons with Disabilities Act provides equal rights to all persons with disabilities, advocacy organizations admitted that its practical effects so far have been minimal in part due to a clause that makes the implementation of programs dependent on the "economic capacity" of the Government. According to regional NGOs, there were more than 50 million persons with disabilities in the country. According to Javed Abidi of the National Center for Promotion of Employment for Disabled People (NCPEDP), the census taken during the year failed to include categories of disability, thus making an accurate estimate of the needs of persons with disabilities impossible. Neither law nor regulations required accessibility for persons with disabilities. With the adoption of the Persons with Disability Act, a nascent disabled rights movement slowly was raising public awareness of the rights of persons with disabilities. Government buildings, educational establishments, and public spaces in New Delhi have almost no provisions for wheelchair access.

The Disabled Division of the Ministry of Welfare had a budget of more than \$47 million (RS 2.3 billion) for the 2001-2002 fiscal year for a number of organizations and committees at the national, regional, and local levels. The Ministry delivered rehabilitation services to the rural population through 16 district centers. A national rehabilitation plan committed the Government to put a rehabilitation center in each of more than 400 districts, but services still were concentrated in urban areas. Moreover, the impact of government programs was limited. Significant funding was provided to a few government organizations such as the Artificial Limbs Manufacturing Corporation of India, the National Handicapped Finance and Development Corporation, and the Rehabilitation Council of India.

As a result of the passage of the Persons with Disability Act, there was a Disabilities Commissioner who over saw implementation of the act and its provisions protecting persons with disabilities. In addition, the NHRC formed a group of seven experts in August 2001 to identify issues affecting persons with disabilities, to review government policies, and to protect the rights of persons with disabilities.

According to the Persons with Disability Act, 3 percent of positions in government offices and state-owned enterprises must be reserved for persons with visual, hearing, or orthopedic disabilities; however, a survey conducted in 1999 by the NCPEDP indicated that in the public sector the figure was 0.54 percent and in the private sector 0.28 percent.

The Government provided special railway fares, education allowances, scholarships, customs exemptions, budgetary funds from the Ministry of Rural Development, and rehabilitation training to assist the disabled; however, implementation of these entitlements was not comprehensive.

Mental health care was a problem. Hospitals were overcrowded and served primarily as a "dumping ground" for the mentally handicapped. Patients generally were ill-fed, denied adequate medical attention, and kept in poorly ventilated halls with poor sanitary conditions. In August 2001, 26 inmates at a private Muslim mental hospital in Erwadi, Tamil Nadu, died in a fire, because they were chained to their beds, which apparently was a common practice in many such private institutions. In January 2001, the NHRC wrote to the chief ministers of all states to ask them to abide by recommendations to remove all persons with mental illness from jails; however, by year's end, no action had been taken.

Indigenous People

The Innerline Regulations enacted by the British in 1873 still provide the basis for safeguarding tribal rights in most of the northeastern border states. These regulations prohibit any person, including citizens from other states, from going beyond an inner boundary without a valid permit. No rubber, wax, ivory, or other forest products may be removed from the protected areas without prior authorization. No outsiders were allowed to own land in the tribal areas without approval from tribal authorities.

The last census conducted indicated that 8 percent of citizens belonged to scheduled tribes. According to the Indian Confederation of Indigenous and Tribal People (ICITP), 80 percent of the tribal population live below the poverty level. At year's end, no action had been taken to repeal the Habitual Offenders Act that aimed at the nomadic tribes. According to the ICITP, more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into situations of economic and sexual exploitation (see Sections 6.c. and 6.f.). Special courts to hear complaints of atrocities committed against tribal people were to have been established under the Protection of Civil Rights Act, but this never was accomplished.

Despite constitutional safeguards, the rights of indigenous groups in the eastern parts of the country often were ignored. Indigenous peoples suffered discrimination and harassment, were deprived wrongly of their land, and were subjected to torture and to arbitrary arrest. There was encroachment on tribal land in almost every eastern state, including by illegal Bangladeshi immigrants, and by businesses that illegally removed forest and mineral products. Moreover, persons from other backgrounds often usurped places reserved for members of tribes and lower castes in national educational institutions. Mob lynching, arson, and police atrocities against tribal people occurred in many states (see Section 1.c.). According to a local NGO, in February 2001 police in Koel-Karo fired on a crowd of 4,000 tribals who had assembled to protest the state government's management of the Koel-Karo dam project and killed 8 persons (see Section 1.a.).

Numerous tribal movements demanding the protection of land and property rights. The Jharkhand Movement in Bihar and Orissa and the Bodo Movement in Assam reflected deep economic and social grievances among indigenous peoples. In the Jharkhand area, tribal people complained that they were relegated to unskilled mining jobs, lost their forests to industrial construction, and were displaced by development projects. Largely tribal-populated states from the Jharkhand area of Bihar and the Chhatisgarh region of Madhya Pradesh were created. The Jharkhand Adivasi Chhatra Sangh called for "ulgulan" (mass awakening) to fight for the cause of the tribals and to demand a 60 percent reservation for tribals in jobs and education, despite the fact that Jharkhand's tribal population made up only 27 percent of the population.

There was some local autonomy for tribal people in the northeast. In Meghalaya tribal chiefs still wielded influence in certain villages. The Nagaland government controlled the rights to certain mineral resources, and autonomous district councils in Tripura, Assam, and Meghalaya control matters such as education, rural development, and forestry in cooperation with the state governors.

National/Racial/Ethnic Minorities

The country's caste system has strong historic ties to Hinduism. It delineates clear social strata, assigning highly structured religious, cultural, and social roles to each caste and subcaste. Members of each caste—and frequently each subcaste—are expected to fulfill a specific set of duties (known as dharma) in order to secure elevation to a higher caste through rebirth. Dalits (formerly called untouchables) were viewed by many Hindus as separate from or "below" the caste system; nonetheless, they too were expected to follow their dharma if they hope to achieve caste in a future life. Despite longstanding efforts to eliminate the discriminatory aspects of caste, the practice remained widespread.

The practice of untouchability, which affected those who, along with tribal people, occupied the lowest strata of the caste system was outlawed in theory by the Constitution and the 1955 Civil Rights Act, but it remained an important aspect of life. Untouchability refers to the social restrictions imposed on persons because of their birth into certain Hindu castes. Dalits were considered unclean by higher caste Hindus and thus traditionally were relegated to separate villages or neighborhoods and to low paying and often undesirable occupations (such as scavenging, street sweeping, and removing human waste and dead animals). Many rural Dalits worked as agricultural laborers for higher caste landowners. By custom Dalits may be required to perform tasks for upper caste Hindus without remuneration. The majority of bonded laborers were Dalits (see Section 6.c.). Dalits are among the poorest of citizens, generally do not own land, and often are illiterate. They face significant discrimination despite the laws that exist to protect them, and often are prohibited from using the same wells and from attending the same temples as higher caste Hindus, and from marrying persons from higher castes. In addition they face segregation in housing, in land ownership, on roads, and on buses. Dalits tend to be malnourished, lack access to health care, work in poor conditions (see Section 6.e.), and face continuing and severe social ostracism. In contrast the highest caste, the Brahmin, with 3.5 percent of the population, holds 78 percent of the judicial positions and approximately 50 percent of parliamentary seats. NGOs reported that crimes committed by higher caste Hindus against Dalits often were unpunished, either because the authorities did not prosecute vigorously such cases or because the crimes were unreported by the victims, who feared retaliation. For example, in October five Dalits youths were killed by a mob, reportedly led by members of the VHP, in Haryana after reports of cow slaughtering in the town. According to HRW, the local leader of the VHP said he had no regrets over the incident and that the life of a cow was worth more than that of five Dalits. A police investigation resulted in 30 arrests; however, there was no further action by year's end. In recent years, groups—including some that use violence—organized to protect Dalit rights.

A survey conducted during 2001 by the Protection of Civil Rights wing of the Tamil Nadu Adidraavidar (indigenous peoples) Department identified 191 villages in Tamil Nadu where caste-based oppression and violence, and the practice of untouchability, were prevalent. Several human rights groups believed that this number was too low and human rights groups alleged that in many Tamil Nadu villages, scheduled castes were not allowed to participate in local festivals, own houses or property in upper caste areas, share upper caste burial grounds, or draw water from public wells in upper-caste neighborhoods. The erection of statues of Dalit heroes or of the flags of Dalit parties in public places often became the cause of inter-caste tension. In several village teashops, Dalits were served beverages in separate cups (the so-called two-tumbler system).

According to press reports, some members of the higher caste disagreed with the State Election Commission's decision to reserve the Melavalavu Panchayat presidency for Dalits and forcibly closed the Panchayat office for several days. When the president and his associates filed a complaint with the district authorities about the incident, they were hacked to death.

The Constitution gives the President the authority to identify historically disadvantaged castes, Dalits, and tribal people (members of indigenous groups historically outside the caste system). These "scheduled" castes, Dalits, and tribes were entitled to affirmative action and hiring quotas in employment, benefits from special development funds, and special training programs. The impact of reservations and quotas on society and on the groups they were designed to benefit was a subject of

active debate. According to the 1991 census, scheduled castes, including Dalits, made up 16 percent, and scheduled tribes were 8 percent of the country's 1991 population of 846 million. Christians historically rejected the concept of caste; however, because many Christians descended from low caste Hindu families, many continued to suffer the same social and economic limitations that low caste Hindus do, particularly in rural areas. Low caste Hindus who convert to Christianity lose their eligibility for affirmative action programs. Those who become Buddhists or Sikhs do not. In some states, government jobs were reserved for Muslims of low caste descent.

In October the Supreme Court decided that minority-run educational institutions that receive government funding may not determine unilaterally the number of reservations for various groups in their admission policies.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act lists offenses against disadvantaged persons and provides for stiff penalties for offenders. However, this act had only a modest effect in curbing abuse. Human rights NGOs alleged that caste violence was on the increase.

Intercaste violence claimed hundreds of lives annually; it was especially pronounced in Uttar Pradesh, Bihar, Rajasthan, Madhya Pradesh, Tamil Nadu, and Andhra Pradesh.

Social pressures to enforce rigid caste lines in all social settings led to episodes of vigilante retribution. In Uttar Pradesh in August 2001, a young couple, a Brahmin boy and a Jat (lower caste) girl, were hanged publicly by their own families in front of most of the village as punishment for refusing to break off a cross-caste relationship. While much more rare in urban settings, such extreme examples of intolerance occurred regularly in rural parts of the country.

Complicated social and ethnic divisions in society created severe localized discrimination. For example, the Pardhis, a small former itinerant community in Maharashtra, faced discrimination at the hands of the police and the rest of rural society in the area in which they live. In the town of Kalamb in northern Maharashtra, the police arrested nine members of the Pardhi community as suspects in a robbery case on August 2001. When the Pardhi community held a protest march in August 2001, a mob burned 50 Pardhi homes. Due to sustained pressure from state human rights activists and the local media, the police filed charges against the several persons. The local media, however, frequently was biased against minorities in Maharashtra and continued to report that the Pardhi community burned its own dwellings to qualify for government compensation.

Section 6 Worker Rights

a. The Right of Association

The Constitution provides for the right of association, and the Government generally respected this right in practice. Workers may establish and join unions of their own choosing without prior authorization. More than 400 million persons made up the country's active work force, and some 30 million of these workers were employed in the formal sector. The rest overwhelmingly were agricultural workers and, to a lesser extent, urban nonindustrial laborers. While some trade unions represented agricultural workers and informal sector workers, most of the country's estimated 13 to 15 million union members were part of the 30-million-member formal sector. Of these 13 to 15 million unionized workers, some 80 percent were members of unions affiliated with one of the 5 major trade union centrals. All major trade union centrals were affiliated to a greater or lesser extent with particular political parties. Central unions stressed their independence and in some cases were attempting to sever previously tight party control. In practice legal protections of worker rights were effective only for the organized industrial sector. Outside the modern industrial sector, laws were difficult to enforce. Union membership was rare in the informal sector.

When abuses, such as intimidation or suppression of legitimate trade union activities, were perpetrated against nationally organized or other large-scale unions or unionized workers, the authorities generally responded by prosecuting and punishing those persons responsible. Unaffiliated unions were not able, in all instances, to secure for themselves the protections and rights provided by law.

The Trade Union Act prohibits discrimination against union members and organizers, and employers are penalized if they discriminate against employees engaged in union activities.

Unions are free to affiliate with international trade union organizations. The Indian National Trade Union Congress and the Hind Mazdoor Sabha were affiliated with the International Confederation of Free Trade Unions (ICFTU), and the All India Trade Union Congress was affiliated with the World Federation of Trade Unions.

b. The Right to Organize and Bargain Collectively

Collective bargaining is the normal means of setting wages and settling disputes in unionized plants in the organized industrial sector. Trade unions vigorously defended worker interests in this process. Although a system of specialized labor courts adjudicates labor disputes, there were long delays and a backlog of unresolved cases. When the parties are unable to agree on equitable wages, the Government may establish boards of union, management, and government representatives to determine them. The legislation makes a clear distinction between civil servants and other workers. Public service employees have very limited organizing and collective bargaining rights.

Trade unions often exercised the right to strike, but public sector unions were required to give at least 14 days' notice prior to striking. Some states have laws requiring workers in certain nonpublic sector industries to give notice of a planned strike.

The Essential Services Maintenance Act allows the Government to ban strikes and requires conciliation or arbitration in specified "essential" industries. Legal mechanisms exist for challenging the assertion that a given dispute falls within the scope of this act; however, essential services never have been defined in law. The act thus is subject to varying interpretations from state to state. The Maharashtra government passed a law in 1999 banning strikes in essential services, that included transport services, milk supply services the electricity department, and hospitals. The Industrial Disputes Act prohibits retribution by employers against employees involved in legal strike actions, and this prohibition was observed in practice.

The Kerala High Court declared that all general strikes (bandhs) were illegal and that all organizers of protests would be liable for losses caused by shutdowns. The Supreme Court upheld the verdict, drawing attention to the difference between a complete closedown of all activities (bandh) and a general strike (hartal). While it is likely that the ruling was introduced in relation to political strikes, unions stated that it remained a potential threat to their activities. Other court rulings also declared strikes illegal and made striking workers pay damages because consumers and the public suffered during strikes.

According to Ministry of Labor statistics, between January and December 2001 there were 672 strikes and lockouts throughout the country, involving 587,778 workers. In all, 241,187 person-days were lost due to strikes, and 50,154 person-days were lost due to lockouts during this period. In April approximately 10 million workers of government-owned enterprises went on a 1 day strike to protest government plans to amend the labor law. The proposed changes would have made it easier to fire workers. The Industrial Disputes Act prohibits retaliation against strikers, provided that the strike is legal.

There were seven Export Processing Zones (EPZs). Entry into the EPZs ordinarily was limited to employees, and such entry restrictions applied to union organizers. All companies bused their workers directly to and from the factory. While workers in the EPZs have the right to organize and to bargain collectively, union activity was rare. In addition, unions did not pursue vigorously efforts to organize private-sector employees in the years since EPZs were established. Women constituted the majority of the work force in the EPZs. The ICFTU reported that overtime was compulsory in the EPZs, that workers often were employed on temporary contracts with fictitious contractors rather than directly by the company, and that workers feared that complaints about substandard working conditions would result in their being fired.

c. Prohibition of Forced or Bonded Labor

The Constitution prohibits forced or bonded labor, including by children; however, such practices were widespread. The Bonded Labor System (Abolition) Act prohibits all bonded labor, by adults and children. Offenders may be sentenced to up to 3 years in prison, but prosecutions were rare. Enforcement of this statute, which was the responsibility of state and local governments, varied from state to state and generally was not effective, due to inadequate resources and to societal acceptance of bonded or forced labor. Labor inspectors at the state and local level had overwhelming case loads, and in many cases, did not receive adequate support or protection to challenge employers, who often had direct access to government officials. On the occasions when inspectors referred violations for prosecution, long court backlogs and inadequate funding for legal counsel frequently resulted in acquittals. NGOs estimated that there were 20 to 65 million bonded laborers in the country, including a large number of children (see Section 6.d.). According to HRW, the majority of bonded laborers were Dalits (see Section 5), and bondage was passed from generation to generation.

A 1983 Supreme Court decision defined forced labor as work at less than the minimum wage, which usually was set by the state governments. Under this definition, which differed from that of the International Labor Organization (ILO), forced labor was widespread, especially in rural areas.

Bonded labor, the result of a private contractual relationship whereby a worker incurs or inherits debts to a contractor and then must work off the debt plus interest, was illegal but widespread. The Government estimated that between enactment of the Bonded (Abolition) Act in 1976 and March 2001, 280,411 bonded workers were released from their obligations. Other sources maintained that those released constituted only 5 percent of the total number of bonded laborers. State governments provided a sum of money to workers freed from bondage for their rehabilitation. The NHRC formed a high-level Central Action Group, which routinely reviewed compliance with the Bonded Labor System Act. The NHRC also appointed a special Rapporteur to work in Andhra Pradesh, Karnataka, Kerala, and Tamil Nadu and report on compliance. In addition, the NHRC instituted a system for receiving regular reports on bonded labor from the states. The NHRC also assessed the bonded labor problem, identifying state districts in which it especially was acute. It identified and evaluated NGOs working in these areas and conducted training in bonded labor law enforcement for district officials in the acutely affected areas. Some press reports indicated that Tamil Nadu alone had 25,800 bonded laborers, in response to which the state government began implementing and continued to work on rehabilitation plans. In 1999 alone, it allocated \$1.25 million (RS 54.4 million) for these plans. Government officials worked to release other bonded laborers in many states. In West Bengal, organized traffic in illegal Bangladeshi immigrants was a source of bonded labor (see Section 6.f.).

NGOs such as the Bonded Labor Liberation Front worked to release bonded laborers throughout the year.

Female bondage, forced prostitution, and trafficking in women and children for the purpose of prostitution were widespread problems (see Section 6.f.). According to press reports, prison officials used prisoners as domestic servants and sold female

prisoners to brothels (see Section 1.c.). Devadasis, prepubescent girls given to a Hindu deity or temple as "servants of God," were taken from their families and required to provide sexual services to priests and high caste Hindus. Reportedly many eventually were sold to urban brothels (see Sections 5 and 6.f.).

d. Status of Child Labor Practices and Minimum Age for Employment

The Government prohibits forced and bonded child labor but did not enforce this prohibition effectively and forced child labor was a problem. The law prohibits the exploitation of children in the workplace.

The Government continued its plan to eliminate child labor from hazardous industries and eventually from all industries. This program, for which approximately \$55 million (RS 2.64 billion) was budgeted since 1992, included the enhanced enforcement of child labor laws, income supplements for families, subsidized school lunches in areas which child labor was concentrated, and a public awareness campaign. The Government continued efforts to enhance enforcement of the Child Labor (Prohibition and Regulation) Act and other laws prohibiting and regulating child labor.

There is no overall minimum age for child labor. However, work by children under 14 years of age was barred completely in "hazardous industries," which includes among other things, passenger, goods, and mail transport by railway. There were 13 occupations and 51 processes in which children were prohibited from working under the act. Child labor was prohibited in certain hazardous industries where there are specific age limits for specific jobs. In occupations and processes in which child labor is permitted, work by children is permissible only for 6 hours between 8 a.m. and 7 p.m., with 1 day's rest weekly.

In addition to industries that utilize forced or indentured child labor (see Section 6.c.), there was evidence that child labor was used in the following industries: Hand-knotted carpets; gemstone polishing; leather goods; and sporting goods.

The enforcement of child labor laws was the responsibility of the state governments; however, enforcement was inadequate, especially in the informal sector in which most children who work were employed. In 2001 the state government of Karnataka promulgated an ambitious plan to eliminate all child labor; however, there was no evidence the plan was in operation during the year. The continuing prevalence of child labor was attributed to social acceptance of the practice, to the failure of the state and federal governments to make primary school education compulsory, and to ineffective state and federal government enforcement of existing laws.

The Government established the National Child Labor Project (NCLP) to release children from hazardous work places and provide them with transitional schooling leading to mainstreaming in regular schools and other forms of assistance. In addition, government programs assisted working children in rural development, women and children's development, health, and adult job creation programs. As of December 2001, the NCLP had 100 projects in 13 states. From April 2000 to December 31, 2005, 800 children participated in the NCLP. During their participation in the NCLP, the children's families were given a small stipend—usually \$2.15 to \$4.30 (RS 100 to 200) per month.

Government efforts to eliminate child labor affected only a small fraction of children in the workplace. A Supreme Court decision increased penalties for employers of children in hazardous industries to \$430 (RS 20,000) per child employed and established a welfare fund for formerly employed children. The Government is required to find employment for an adult member of the child's family or pay \$108 (RS 5,000) to the family. According to the South Asian Coalition on Child Servitude the authorities were pursuing some 6,000 cases against employers. The Supreme Court ruling also helped make local government officials more aware of the prohibitions against child labor in hazardous industries. This in some cases helped improve cooperation between local officials and NGOs like SACCs that removed children from hazardous workplaces. In the hand-knotted carpet producing area of Uttar Pradesh, the NHRC and NGOs worked with the state government to establish a task force for the elimination of child labor.

Estimates of the number of child laborers varied widely. The Government census of 1991 put the number of child workers at 11 million. The ILO estimated the number at 44 million, while NGOs stated that the figure is 55 million. Most, if not all, of the 87 million children not in school did housework, worked on family farms, worked alongside their parents as paid agricultural laborers, worked as domestic servants, or otherwise were employed.

The working conditions of domestic servants and children in the workplace often amounted to bonded labor. Children sent from their homes to work because their parents cannot afford to feed them, or in order to pay off a debt incurred by a parent or relative, had no choice. There were no universally accepted figures for the number of bonded child laborers. However, in the carpet industry alone, human rights organizations estimated that there may be as many as 300,000 children working, many of them under conditions that amount to bonded labor. Officials claimed that they were unable to stop this practice because the children were working with their parents' consent. In addition, there was a reasonable basis to believe that products were produced using forced or indentured child labor in the following industries: Brassware; hand-knotted wool carpets; explosive fireworks; footwear; hand-blown glass bangles; hand-made locks; hand-dipped matches; hand-broken quarried stones; hand-spun silk thread and hand-loomed silk cloth; hand-made bricks; and beedis (hand-rolled cigarettes). A number of these industries exposed children to particularly hazardous work conditions (see Section 6.d.). In its first attempt to address the issue of domestic child labor, during 2000 the Government issued a notification prohibiting government employees from hiring children as domestic help. Those employers who failed to abide by the law were subject to penalties provided by the Bonded Labor System (Abolition) Act (such as fines and imprisonment) and also to disciplinary action at the workplace.

Bonded child labor in silk twining factories was a problem. The labor commissioner estimated that there were 3,000 bonded child laborers in the Magadi silk twining factories. According to HRW, bonded children as young as 5 years old worked 12 or more hours a day, 6 1/2 or 7 days a week. Children making silk thread dip their hands in boiling water that burns and blisters them. They breathe smoke and fumes from machinery, handle dead worms that cause infections, and guide twisting threads that cut their fingers. As they assist weavers, children sit at cramped looms in damp, dim rooms. They do not go to school and often were often beaten by their employers. By the time they reached adulthood, they were impoverished, illiterate, and often crippled by the work. In response UNICEF started a nonformal education program for the estimated 3,000 bonded child laborers working in the industry. By late 2000, approximately 260 children were enrolled. In addition, UNICEF began a microcredit program for the parents of these children to create income-generating opportunities as an alternative to child labor.

Employers in some industries also took steps to combat child labor. The Carpet Export Promotion Council (CEPC), a quasi-governmental organization that received funding from the Ministry of Textiles, has a membership of 2,500 exporters who subscribed to a code of conduct barring them from purchasing hand-knotted carpets known to have been produced with child labor. The CEPC conducted inspections to insure compliance and allowed members to use voluntarily a government-originated label to signify adherence to the code of conduct. Rugmark, which was a private initiative, operated a similar voluntary label scheme. Rugmark had 250 exporter members who buy carpets from the 28,710 looms registered with Rugmark. However, the CEPC stated that even with the program it was impossible to ensure that a carpet had been produced without child labor, given the difficulties of monitoring a decentralized and geographically dispersed industry. A private-sector research and consulting firm conducted the inspections, which covered only 10 percent of registered looms. The inspectors had difficulty locating unregistered looms. The Government also cooperated with UNICEF, UNESCO, the UNDP, and the ILO in its efforts to eliminate child labor.

The Government participated in the ILO's International Program on the Elimination of Child Labor (IPEC). Approximately 90,000 children were removed from work and received education and stipends through IPEC programs since they began in the country in 1992.

The NHRC, continuing its own child labor agenda, organized NGO programs to provide special schooling, rehabilitation, and family income supplements for children in the glass industry in Firozabad. The NHRC also intervened in individual cases.

The Government has not ratified ILO Convention 182 on the worst forms of child labor.

e. Acceptable Conditions of Work

The directive principles of the Constitution declare that "the State shall endeavor to secure...to all workers...a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities." Laws set minimum wages, hours of work, and safety and health standards. Laws governing minimum wages and hours of work generally were observed in industries subject to the Factories Act but largely were not enforced elsewhere and did not ensure acceptable conditions of work for the 90 percent of the work force not subject to the Factories Act.

Minimum wages varied according to the state and to the sector of industry. Such wages provided only a minimal standard of living for a worker and were inadequate to provide a decent standard of living for a worker and family. Most workers employed in units subject to the Factories Act received more than the minimum wage, including mandated bonuses and other benefits. The state governments set a separate minimum wage for agricultural workers but did not enforce it effectively. Some industries, such as the apparel and footwear industries, did not have a prescribed minimum wage in any of the states in which such industries operated.

The Factories Act established an 8-hour workday, a 48-hour workweek, and various standards for working conditions. These standards generally were enforced and accepted in the modern industrial sector, but tended not to be observed in older and less economically robust industries. State governments were responsible for enforcement of the Factories Act. However, the large number of industries covered by a small number of factory inspectors and the inspectors' limited training and susceptibility to bribery resulted in lax enforcement.

The enforcement of safety and health standards also was poor. Although occupational safety and health measures varied widely, in general state and central government resources for inspection and enforcement of standards were adequate. However, as awareness grew, the courts began to take work-related illnesses more seriously. Industrial accidents continued to occur frequently due to improper enforcement of existing laws. Chemical industries were the most prone to accidents. According to the Director General of Mines' safety rules, mining companies must seal the entrances to abandoned underground mines and opencast mines were to be bulldozed and reforested. These rules seldom were obeyed. According to the Government, during the period from January to September 2001, 192 persons were killed in mining accidents. In February 2001, the collapse of a mine wall led to the death of more than 30 miners. An investigation into the cause of the disaster began during the year. Illegal mining was rampant. In October a fire in the firecracker manufacturing company in Andhra Pradesh killed 13.

Safety conditions tended to be better in the EPZs.

The law does not provide workers with the right to remove themselves from work situations that endanger health and safety

without jeopardizing their continued employment.

Legal foreign workers were protected under the law; however, illegal foreign workers had no protection.

f. Trafficking in Persons

The law prohibits trafficking in persons; however, trafficking in persons was a significant problem. NGOs alleged that corruption at the enforcement level helps to perpetuate the problem. The country was a significant source, transit point, and destination for numerous trafficked persons, primarily for the purposes of prostitution and forced labor.

The country was a destination country for Nepali and Bangladeshi women and girls trafficked for the purpose of labor and prostitution. Internal trafficking of women and children was widespread. To a lesser extent, the country is a origin for women and children trafficked to other countries in Asia, the Middle East, and the West. The country serves as a transit point for Bangladeshi girls and women trafficked for sexual exploitation to Pakistan, and for boys trafficked to the Gulf States to work as camel jockeys. NGOs reported that sexual exploitation of children for sex tourism increased sharply in the states of Goa and Kerala.

Child prostitution occurred in the cities, and there were an estimated 575,00 child prostitutes nationwide. According to an ILO estimate, 15 percent of the country's estimated 2.3 million prostitutes were children. More than 2.3 million girls and women were believed to be working in the sex industry against their will within the country at any given time, and more than 200,000 persons were believed to be trafficked into, within, or through the country annually. Women's rights organizations and NGOs estimated that more than 12,000 and perhaps as many as 50,000 women and children were trafficked into the country annually from neighboring states for the sex trade. According to an ILO estimate, 15 percent of the country's estimated 2.3 million prostitutes were children, while the U.N. reported that an estimated 40 percent were below 18 years of age. Many tribal women were forced into sexual exploitation.

Trafficking in, to, and through the country largely was controlled by organized crime.

There was a growing pattern of trafficking in child prostitutes from Nepal. Girls as young as 7 years of age were trafficked from economically depressed neighborhoods in Nepal, Bangladesh, and rural areas to the major prostitution centers of Mumbai, Calcutta, and New Delhi. There were approximately 100,000 to 200,000 women and girls working in brothels in Mumbai and 40,000 to 100,000 in Calcutta. In Mumbai an estimated 90 percent of sex workers began when they were under 18 years of age; half were from Nepal. A similar profile was believed to exist among female sex workers in Calcutta, although the vast majority of women who were trafficked there came from Bangladesh. NGOs in the region estimated that approximately 6,000 to 10,000 girls were trafficked annually from Nepal to Indian brothels, and that a similar number were trafficked from Bangladesh.

The northeastern states of Meghalaya, Manipur, and Tripura were source areas for internally trafficked women and girls. West Bengal was a source for women and girls trafficked to Mumbai, Delhi, Uttar Pradesh, and Punjab for the commercial sex trade. The women involved in Mumbai's sex trade were mainly from Karnataka, rural Maharashtra, Tamil Nadu, Orissa, Bangladesh, and Nepal.

In West Bengal, the organized traffic in illegal Bangladeshi immigrants was a source of bonded labor. Calcutta was a convenient transit point for traffickers who send Bangladeshis to New Delhi, Mumbai, Uttar Pradesh, and West Asia. Persons sometimes were sold into virtual slavery.

Within the country, women from economically depressed areas often moved into the cities seeking greater economic opportunities, and once there were victimized by traffickers who forced or coerced them into the sex trade. In some cases, family members sold young girls into the sex trade. For example, according to a local NGO researcher, in one village in Uttar Pradesh, girls 1 to 2 years of age were purchased from their parents and adopted by persons who trained them for the sex trade through the use of pornographic materials and then sold them into the sex trade when they were 7 to 12 years old.

Many indigenous tribal women were forced into sexual exploitation. According to the Indian Center for Indigenous and Tribal Peoples (ICITP), more than 40,000 tribal women, mainly from Orissa and Bihar, were forced into economic and sexual exploitation; many came from tribes that were driven off their land by national park schemes. In Punjab persons of both sexes were sold in weekend bazaars, ostensibly as farm labor; many instead were purchased for the purposes of forced sexual services. The Department of Social Welfare suggested that more efficient implementation of ongoing development programs for tribal people in the district offered the best remedy for the child labor problem.

The number of women being trafficked to other countries was comparatively low. In July 2000, authorities cooperated with investigators seeking evidence in the prosecution of Lakreddy Bali Reddy, a U.S. citizen of Indian birth, who was indicted for trafficking minor girls for sexual exploitation from a rural area of Andhra Pradesh to the U.S. Reddy allegedly paid the airfares and expenses of 350 to 400 young men and women aged approximately 13 to 18 years, mostly from low castes, and obtained their passports and visas – ostensibly to work as specialty cooks or laborers in his restaurants or apartment business. However,

upon arrival in the U.S., the girls reportedly were put to work in a prostitution ring. Some of the girls claimed that Reddy had sex with them in India after their parents sold them; at least one victim was 12 years old. At year's end, Reddy pled guilty to trafficking and was imprisoned for this crime.

Many boys, some of whom were as young as age 4, were trafficked to West Asia or the Persian Gulf States (especially the United Arab Emirates) and became camel jockeys in camel races. Some such boys end up as beggars in Saudi Arabia during the hajj. The majority of such children worked with the knowledge of their parents, who received as much as \$200 (RS 9,300) for their child's labor, although a significant minority simply were kidnaped. The gangs bringing the jockeys earned approximately \$150 (RS 6,975) per month from the labor of each child. The usual procedure used for bringing the children to the Gulf States was to have their names added to the passport of a Bangladeshi or Indian woman who already had a visa for the Gulf; the children fraudulently were claimed to be her children. Girls and women were trafficked to the Persian Gulf States to work as domestic workers or sex workers.

The National Commission for Women reported that organized crime played a significant role in the country's sex trafficking trade and that women and children who were trafficked frequently were subjected to extortion, beatings, and rape. How women were trafficked varies widely: Some were abducted forcibly or drugged, while others were made false offers of marriage, employment, or shelter. Poverty, illiteracy, and lack of employment opportunities contributed to the trafficking problem, although organized crime was a common element in all trafficking incidents, as was police corruption and collusion. Although corruption was endemic in the country, there was no known anti-corruption initiative that was linked specifically to corruption as it related to trafficking during the year. NGOs alleged that ignorance, a lack of political resolve to tackle it, and corruption at the enforcement level perpetuated the problem.

Although the police were charged with enforcing the country's laws on prostitution and trafficking in women and children, NGOs, observers, and sex workers uniformly viewed police actions as part of the problem. Sex workers in Mumbai and Calcutta claimed that harassment, extortion, and occasional arrests on soliciting charges usually characterized police intervention. The police seldom were seen as a positive force that addressed the violence of pimps and traffickers while protecting underage girls from bonded sex labor. In May in a raid on a brothel in Pune, the police reportedly discovered that one major brothel owner's cell-phone had the numbers of many senior police officers in its memory. A commonly held view among sex workers and NGOs was that local police and politicians responsible for the redlight areas received bribes from organized crime networks to protect the lucrative sex trade. NGOs, victims, and the media continued to identify corruption at the enforcement level as an impediment to swifter and fairer justice for trafficked women and children.

Victims of trafficking were subject to threats, including emotional blackmail, violence, and confinement, as well as the threat of apprehension by authorities, detention, prosecution and deportation. Most victims of trafficking did not possess identity documents. Once removed from their communities to an area dominated by a different culture and a different language or dialect, it was difficult for victims of trafficking to find their way back home, where they may face social ostracism.

The penalty for traffickers was prescribed by the Immoral Trafficking Prevention Act (ITPA). If the offense had been committed against a child (under 16 years), the punishment was imprisonment for 7 years to life. If the victim was a minor (16 to 18 years), the punishment was from 7 to 14 years. Other penalties under the act range from minimum terms of imprisonment of 1 year for brothel-keeping, to minimum terms of 7 years to life imprisonment for detaining a person, with or without consent, for prostitution.

Immoral Trafficking Prevention Act (ITPA), supplemented by the Penal Code, prohibits trafficking in human beings and contains severe penalties for violations. The Constitution also prohibits trafficking in persons. The ITPA toughened penalties for trafficking in children, particularly by focusing on traffickers, pimps, landlords, and brothel operators, while protecting underage girls as victims. The ITPA required police to use only female police officers to interrogate girls rescued from brothels. The ITPA also required the Government to provide protection and rehabilitation for these rescued girls. In addition, under the ITPA, prostitution is not a crime; the ITPA criminalizes only solicitation or engaging in sex acts in or near a public place. Some NGOs noted that this ambiguity, which was intended to protect trafficking victims, instead was exploited to protect the sex industry.

However, the country's prostitution and trafficking laws were imposed selectively by police; clients and organizers of the sex trade tended not to be penalized, while prostitutes found soliciting or practicing their trade in or near (200 yards) public places were penalized. Due to the selective implementation, the "rescue" of sex workers from brothels often led to their revictimization. Using the ITPA's provisions against soliciting or engaging in sexual acts, police regularly may arrest sex workers, extort money from them, evict them, and take their children from them. Clients of prostitutes, by comparison, largely were immune from any law enforcement threat, as clients committed a crime only if they had engaged in a sex act with a sex worker in a public place or had had sex with a girl under the age of 16 years (statutory rape). Therefore, although the intention of the ITPA was to increase enforcement efforts against the traffickers, pimps, and border operators, the opposite occurred; a Calcutta NGO reported that on average, approximately 80 to 90 percent of the arrests made under the ITPA in West Bengal state in the 1990s were of female sex workers. Only a small fraction of arrests made under the ITPA involved traffickers. Implementation of the ITPA's provisions for protection and rehabilitation of women and children who were rescued from the sex trade was extremely poor. NGOs familiar with the legal history of prostitution and trafficking laws regarded the failure of the judiciary to recognize this inequity in the law's implementation as a continuing "blind spot." Over the last several years, arrests and prosecutions under the ITPA remained relatively static, while all indications suggested a growing level of trafficking into and within the country.

NGOs and others alleged that when police took action against brothels suspected of enslaving minors, the resulting police raids

often were planned poorly and seldom coordinated with NGOs or government social agencies. NGOs claimed that without advance notice of police raids on brothels, they were not able to lend valuable assistance in identifying and interviewing underage victims. Moreover, police did not seek advice or assistance from NGOs in planning law enforcement action to protect the victims during raids. Therefore, the police action often worsened the situation of the girls and women indebted to traffickers and brothel owners. Girls rescued from brothels were treated as criminals and often abused sexually by their police rescuers or by the staff of government remand centers, where they were housed temporarily before being brought back to the brothels as a result of the bribes paid by brothel operators, or legally released into the custody of traffickers and madams posing as relatives. In these cases, the debt owned by the girls to the brothel operators and traffickers further increases as the costs of bribing or legally obtaining release of the girls is added to their labor debt.

NGOs also have demanded that special ITPA courts for speedy resolution of cases allow videotaped testimony so that underage victims need not be summoned back for trial. Social welfare agencies of the central and state governments were underfunded and were unable to implement antitrafficking plans effectively. The NGO community took the lead on prevention, protection, and prosecution of trafficking and has a mixed record in securing the cooperation of the state and local police. During the year, police and NGOs rescued 12 minor girls from brothels in New Delhi. The Andhra Pradesh NGO Sthree, registered nine cases and arrested ten traffickers in two Andhra Pradesh districts between May and November. At year's end, six trials were ongoing in connection with these arrests. In separate incidents, Railway Police helped to rescue 41 children from Chennai to Gujarat on September 19 and ten girls in Coimbatore on September 17. There were roughly 80 NGOs in 10 states around the country working for the emancipation and rehabilitation of women and children trafficked into the sex trade. A group on child prostitution established by the NHRC includes representatives from the National Commission for Women, the Department of Women and Child Development, NGOs, and UNICEF. It continued to meet throughout the year to devise means of improving enforcement of legal prohibitions.

Some NGOs were very knowledgeable about the trafficking situation in the brothel areas such as Kamathipura, and could identify traffickers and the locations of girls being held captive by brothel owners. However, most of these NGOs were reluctant to trust the police with this information due to the past conduct of police in brothel raids and the likelihood that many trafficking victims would be arrested and revictimized rather than assisted by such raids. Cooperation among NGOs in sharing information and assessing the magnitude and scope of the trafficking problem in Mumbai has not been significant, although it continued to improve. Some NGOs, particularly in Mumbai, Calcutta, New Delhi, and Pondicherry, worked aggressively to sensitize, train, and create awareness of trafficking among local authorities. The NGO Prerana, which worked closely with government officials, was an example.

Efforts to improve NGO coordination were being made in Calcutta, where 10 NGOs met monthly as part of the Action Against Trafficking and Sexual Exploitation of Children (AATSEC) forum. Every 3 months, the group attempted to meet with its Bangladeshi and Nepalese counterparts. Calcutta NGOs such as Sanlaap also were seeking to build stronger working relationships with local police. As a result of this coordination, Sanlaap built stronger working relationships with police and other law enforcement officials in Calcutta. It organized and sponsored meetings between representatives of the sex workers and police to discuss such issues as violence against women and trafficking. The seminars helped sensitize police to the fact that many of the sex workers were the victims of organized traffickers. Sanlaap has been allowed to place a counselor at the West Bengal Remand Home for Women, where rescued trafficking victims were housed. It also has been permitted to place counselors in police stations within Calcutta's red light district and convinced the courts to release young trafficking victims into its custody, instead of sending them to the remand home.

Training and informational meetings took place under the AATSEC forum, which worked with groups in Nepal and Bangladesh. The NHRC asked the committee that oversees the Hajj (pilgrimage) to require individual passports for children instead of allowing them to be included on that of their escort, in order to reduce trafficking of children. NHRC also advised the Government of West Bengal to make efforts to educate Muslims about child trafficking.